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A. H.
F. D.



Great Britain. Foreign Office

CORRESPONDENCE

RELATING TO

AMERICA,

PRESENTED TO PARLIAMENT

In 1810.

LONDON:

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CORRESPONDENCE

BETWEEN

MR. SECRETARY CANNING

AND

THE HON. D. ERSKINE.

Ordered to be printed 5th February 1810.

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PAPERS.

No. 1.

DISPATCH from Mr. Secretary Canning
to the Honourable David Erskine, dated
Foreign Office, 23d January 1809.

Sir,

YOUR Dispatches from No. 46. to No. 49. both
inclusive, have been received, and laid before
the King.

The most serious Attention of His Majesty's Government has been directed to the important Matter treated in those Dispatches; and especially to those Confidential Communications which you represent yourself to have received from different Individuals of Weight and Influence, in the American Government, respecting the Political Relations of Great Britain and the United States.

It must be confessed, that the Conciliatory Disposition which these Individuals describe to you as existing in the Part of the American Administration, does not appear either in the Acts of the Government or in the Debates of Congress. But the Intimations which have been given to you of the Difference between the personal Sentiments of Mr. Jefferson, and those of his probable Successor in the Presidency with respect to this Country, and the Hopes which you have been led to entertain, that the beginning of the new Presidency may be favourable to a change of Policy in America if Opportunity and Encouragement for such a Change shall be

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afforded

afforded by this Country; have induced His Majesty's Government to review and consider the most important Points of Disagreement between the Two Governments; and I have received His Majesty's Command to send you such Instructions on those Subjects, as must, if the Government of the United States be seriously disposed to Accommodation, lead to their immediate and satisfactory Adjustment.

The first of these Points is the Affair of the Chesapeake.

Nothing prevented an Amicable Conclusion of this Discussion by Mr. Rose except the Refusal of the American Government to withdraw the Proclamations issued on the 2d July 1807, by which the Ships of War of Great Britain were interdicted from the Harbours of the United States, while those of France continued to be allowed a free Refort to them.

The Construction given by Mr. Madison to the Resolution of the Committee, to whom the Consideration of the Foreign Relations of the United States were referred at the Opening of the present Session of Congress, undoubtedly goes a considerable Way to remove the Objection to which the Proclamation was liable.

Of the Exclusion of the Ships of War of both Belligerents from the Ports of a Neutral State, neither Belligerent has a Right to complain. The Partiality of that Regulation alone, gave to it a Character of Hostility.

If therefore the Ships of War of France shall in Point of Fact have been excluded from the Ports of the United States, and such Ships of that Description as were in those Ports at the Time of passing the Resolution shall have been warned to depart, His Majesty would no longer insist upon the formal Recal-

Recall of the Proclamation as a Preliminary to the Adjustment of the Difference arising from the Affair of the Chesapeake.

It is still necessary however that either the Proclamation should be withdrawn, or its Operation formally declared to be at an End; but it will be sufficient if that Withdrawal or Declaration is recorded (according to the Arrangement which Mr. Madison professed himself ready to adopt) in the same Instrument, or at the same Time, with the Terms of Reparation, which His Majesty is now willing to offer.

The Terms of Reparation which Mr. Rose was authorized to propose, were in Substance,

1st, A formal Disavowal by His Majesty of the Act of Admiral Berkeley;

2dly, The Restoration of the Men forcibly taken from on board the Chesapeake, reserving to His Majesty the Right of claiming in a regular Way from the American Government, the Discharge of such of them as might prove upon Investigation to be either Natural-born Subjects of His Majesty's, or Deserters from His Majesty's Service;

3dly, A pecuniary Provision suitable to their respective Situations in Life, for the Widows or Orphans of such Men (not being Natural-born Subjects of His Majesty, nor Deserters from His Majesty's Service) as may have been unfortunately killed on board the Chesapeake.

In return for these Concessions, His Majesty required:—1st, A Disavowal on the Part of the American Government of the Detection by Commodore Barron of Deserters from His Majesty's Service; Of his Denial of his having such Persons on board of the Ship under his Command, and his Refusal to deliver them upon demand;—2dly, A like Disavowal

(8)

Vowal of the Outrages committed on the Persons or Property of His Majesty's Subjects at Norfolk, or elsewhere, in consequence of this Affair, an Engagement was also to be required that the American Government should not in future countenance any of its Agents, Civil or Military, in encouraging Desertion from His Majesty's Service.

This last Point being according to the Statement in your No. 47. to be provided for by a Special Act of Congress, it is not necessary to obtain any specific Engagement or Declaration respecting it; and as it is above all Things desirable to simplify as much as possible the Conclusion of an Arrangement which has been so long pending; as a Recurrence to the Details of the Affair of the Chesapeake, of the Causes which led to it, and of the Discussions immediately arising out of it, might lead to complicated and fruitless Controversy, His Majesty on his Part would be contented at present to waive any Demand for retrospective Disavowals on the Part of the Government of the United States; that Government being, on the other Hand, contented to receive back the Men forcibly taken out of the Chesapeake, as the single and sufficient Act of Reparation.

To which, however, His Majesty would still be willing to add the Provision for the Widows and Orphans of the Men killed in the Action, but as an Act of His Majesty's spontaneous Generosity.

This Arrangement I have every Reason to believe, both from what Mr. Pinkney has stated to me and what Mr. Rose reports of Mr. Madison's unofficial Conversations, would be satisfactory to the American Government upon this Subject.

Whether this Arrangement shall be settled by a formal Convention or by the Exchange of Ministerial

trial Notes dated the same Day, and reciprocally delivered at the same Time, is left to the Decision of yourself and of the American Minister.

I have only to add (tho' I see no Ground to apprehend that such a Demand is likely to be brought forward) that you are steadily and peremptorily to refuse any Demand for any Mark of His Majesty's Displeasure to Admiral Berkeley, than that which was in the first Instance manifested, by that Officer's immediate Recal.

You are to open the Subject of Cheapeake separately and distinctly. The Manner in which the Proposal for the Adjustment of that Difference may be received will be the best Test of the general Disposition of the American Government, and will naturally indicate the Course to be pursued in respect to the further Instructions which I shall proceed to communicate to you in another Dispatch.

I am, &c.

(Signed) *George Canning.*

No. 2.

DISPATCH from Mr. Secretary Canning,
to the Honourable David Erskine, dated
Foreign Office, 23d January 1809.

Sir,

IF there really exists in those Individuals who are to have a leading Share in the New Administration of the United States, that Disposition to come to a complete and cordial Understanding with Great Britain, of which you have received from them such positive

positive Assurances ; in meeting that Disposition it would be useless and unprofitable to recur to a Recapitulation of the Causes from which the Differences between the Two Governments have arisen, or of the Agreements already so often repeated in Support of that System of Retaliation to which His Majesty has unwillingly had Recourse.

That System His Majesty must unquestionably continue to maintain, unless the Object of it can be otherwise accomplished.

But after a Profession on the Part of so many leading Members of the Government of the United States, of a sincere Desire to contribute to that Object in a Manner which should render the Continuance of the System adopted by the British Government unnecessary, it is thought right that a fair Opportunity should be afforded to the American Government to explain its Meaning, and to give Proof of its Sincerity.

The Extension of the Interdiction of the American Harbour to the Ships of War of France as well as of Great Britain, is, as stated in my other Dispatch, an acceptable Symptom of Impartiality towards the Belligerents. The First that has been publicly manifested by the American Government.

The like Extension of the Non-Importation Act of the other Belligerents is equally proper in this View. These Measures remove those Preliminary Objections which must otherwise have precluded any useful or amicable Discussion.

In this State of Things it is possible for Great Britain to entertain Propositions which, while such manifested Partiality was shewn to her Enemies, were not consistent either with her Dignity, or her Interests.

From the Report of your Conversations with Mr. Maddison, Mr. Galatin and Mr. Smith, it appears,

1st,

1st, That the American Government is prepared in the Event of His Majesty's consenting to withdraw the Orders in Council of January and November 1807, to withdraw contemporaneously on its Part the Interdiction of its Harbours to Ships of War, and all Non-intercourse and Non-importation Acts, so far as respects Great Britain, leaving them in force with respect to France, and the Powers which adopt or act under her Decrees :

2dly, What is of the utmost Importance, as precluding a new Source of Misunderstanding which might arise after the Adjustment of the other Questions, that America is willing to renounce, during the present War, the Pretension of carrying on, in Time of War, all Trade with the Enemies Colonies, from which she was excluded during Peace :

3dly, Great Britain, for the Purpose of securing the Operation of the Embargo, and of the *bona fide* Intention of America, to prevent her Citizens from trading with France, and the Powers adopting and acting under the French Decrees, is to be considered as being at Liberty to capture all such American Vessels, as may be found attempting to trade with the Ports of any of those Powers ; without which Security for the Observance of the Embargo, the raising it nominally with respect to Great Britain alone, would in fact raise it with respect to all the World.

On these Conditions His Majesty would consent to withdraw the Orders in Council of January and November 1807, so far as respects America.

As the First and Second of these Conditions are the Suggestions of the Persons in Authority in America, to you, and as Mr. Pinckney has recently (but for the First Time) expressed to me his Opinion that there will be no Indisposition on the Part

Part of his Government to the Enforcement by the Naval Power of Great Britain, of the Regulations of America with respect to France, and the Countries to which those Regulations continue to apply, but that his Government was itself aware that, without such Enforcement, those Regulations must be altogether nugatory, I flatter myself that there will be no Difficulty in obtaining a distinct and official Recognition of these Conditions from the American Government.

For this Purpose you are at Liberty to communicate this Dispatch *in extenso*, to the American Secretary of State.

Upon receiving through you, on the Part of the American Government, a distinct and official Recognition of the Three above mentioned Conditions, His Majesty will lose no Time in sending to America a Minister fully empowered to consign them to a formal and regular Treaty.

As, however, it is possible that the Delay which must intervene before the actual Conclusion of a Treaty, may appear to the American Government to deprive this Arrangement of Part of its Benefits, I am to authorize you, if the American Government should be desirous of acting upon the Agreement before it is reduced to a regular Form, either by the immediate repeal of the Embargo, and the other Acts in Question, or by engaging to repeal them on a particular Day, to assure the American Government of His Majesty's Readiness to meet such a Disposition in the Manner best calculated to give it immediate Effect.

Upon the Receipt here of an Official Note, containing an Engagement for the Adoption, by the American Government, of the Three Conditions above specified, His Majesty will be prepared on the Faith

Faith of such Engagement, either immediately, (if the Repeal shall have been immediate in America) or on any Day specified by the American Government for that Repeal, reciprocally to recal the Orders in Council, without waiting for the Conclusion of a Treaty.

And you are authorized in the Circumstances herein described, to take such reciprocal Engagement on His Majesty's Behalf.

I am, &c.

(Signed) *Geo. Canning,*

No. 3.

DISPATCH from Mr. Secretary Canning
to the Honourable David Erskine, dated
Foreign Office, 23d January 1809.

Sir,

IN Addition to what I have stated in my preceding Dispatch of this Date, I think it right to assure you, that the Intention of sending a Minister to America, as therein announced, for the Purpose of concluding a Treaty with the United States, has not arisen from any Doubt of your executing the Commission, if it had been entrusted to you, with Zeal, and with Ability ; but it is presumed, that after the long Suspension of friendly Intercourse with the United States, a Minister sent for this single and special Purpose, and fully apprized of all the Sentiments on this Subject, of the Government by which he is employed, would have a better Prospect

pect of removing any Difficulties which might occur, than if the Negotiation were to be conducted by the Resident Minister.

I am, &c.

Geo. Canning.

No. 4.

DISPATCH from Mr. Secretary Canning
to the Honourable David Erskine, dated
Foreign Office, 23d January 1809.

Sir,

IN your Dispatch No. 47, among the other important Suggestions which you state yourself to have received from Mr. Galater, is one, the Purport of which is, that supposing all the existing Differences between the Two Countries to be done away, the System of their Commercial Intercourse might be better regulated by the short and simple Agreement, either to admit such other Productions on equal and reciprocal Duties, or reciprocally to place each on the Footing of the most favoured Nation, than by any more minute and complicated Provisions.

The Sentiments upon which this Suggestion appears to be founded are so much in Unison with those entertained here, that I am to direct you, in the Event of the Subjects mentioned in my Dispatches being put in a Train of Adjustment, to endeavour to obtain from the American Government some more precise and authentic Exposition of their View upon this Subject, to be transmitted here for Consideration, if possible, at the same Time with their

their Answers upon the Subjects of those other Dispatches.

It will not, however, be desirable that those Answers should be delayed for this Purpose.

But you are authorized to assure the American Government of the Readiness with which we shall be prepared to enter into the amicable Discussion of the Commercial Relations of the Two Countries, on the Basis of the latter of the Two Principles proposed by Mr. Galater, whenever these Obstacles, which stood in the Way of the Renewal of their Inter-course, shall have been happily removed.

In this Case, as in respect to the Subject of my other Dispatches, you will see that the Sincerity of the good Disposition professed by the Persons composing the New Administration, is the Point the most important in the View of the British Government.

If such a Disposition really exists, all Difficulties will (as Mr. Galater has expressed himself) be easily smoothed away.

If unfortunately this Hope should be disappointed, Great Britain has only to continue the System of Self Defence and Retaliation upon her Enemies to which she has been compelled to have Recourse, with the Consciousness of having eagerly seized the first Opportunity that appeared to be offered to her, of obtaining, through an amicable Arrangement with America, the Object for which that System was established.

I am, &c.

(Signed) George Canning.

No. 5.

No. 5.

DISPATCH from Mr. Secretary Canning
to the Honourable David Erskine, dated
Foreign Office, 22d May 1809.

Sir,

YOUR Dispatches, Nos. 19 and 20, of the 19th
and 20th of April, have been received here
this Day, and laid before the King.

I have lost no Time in receiving His Majesty's
Commands to signify to you His Majesty's Senti-
ments, on the Manner in which you have executed
the Instructions conveyed to you in my Dispatches
by Mr. Oakley.

It is much to be regretted, that, in the Execution
of Instructions upon Points of so much Delicacy and
Importance, you should have thought yourself au-
thorized to depart so widely not only from their
Letter but from their Spirit.

With respect to the Instructions relating to the
Chesapeake, which from the Subject of my Dis-
patch No. 1. I have to remark, first, the Total
Omission by you, of a Preliminary of the most
material Importance; 2dly, A. Departure from
the Terms of your Instructions in the Manner of
conducting the Negotiation; and, 3dly, The Ad-
mission by you, and, so far as appears, without
Remonstrance or Observation, of a Note con-
taining Expressions offensive to His Majesty's Dign-
ity, such as no Minister of His Majesty ought to
have submitted to receive, and to transmit to His
Government.

1st, It is distinctly stated by me, as the Condition
of His Majesty's "no longer insisting upon the Recal
" of

“ of the Proclamation of July 1807, as a Preliminary to the Adjustment of the Difference arising from the Affair of the Chesapeake,” “ that the Ships of War of France shall, in Point of Fact, have been excluded from the Ports of the United States, and such Ships of that Description as were in those Ports, shall have been warned to depart.”

Of this Condition you appear to have taken no Notice whatever. The Non-intercourse Bill operated only to the prospective Exclusion ; but as to the Warning to be given to any Ships of War of France, (if any such there were) in the Ports of the United States, it no where appears that even a Question was put by you on this Subject, much less that you received any satisfactory Assurance upon it.

2dly, But if this preliminary Condition had been fulfilled, Your Instructions proceeded to state, that even then, “ it would still be necessary that either the Proclamation should be withdrawn or its Operation formally declared to be at an End,” “ though it would be sufficient that such Withdrawal or Declaration should be recorded in the same Instrument, or at the same Time with the Terms of Reparation.”

So far from this indispensable Condition having been obtained by you, Mr. Smith, in the Answer returned by him to your Note, studiously avoids any Thing like a Recognition of the Principle on which alone the Demand of the formal Recal of the Proclamation was to be waved ; neither is the Proclamation itself withdrawn, nor its Operation declared to be at an End.

The obvious Consequence of this Omission is, that if the Non-intercourse Act, which is a temporary

ary Act, were to be suffered to expire, the Proclamation might revive, and the Inequality between the Two Belligerents be thereby restored.

It was obviously your Duty, before you committed His Majesty's Name by a written Offer of Reparation, to ascertain in what Manner that Offer would be received, and answered ; and if you found that the express Condition either of withdrawing the Proclamation, or declaring its Operation to be at an End, would not be complied with, to abstain from proceeding one single Step in the Negotiation until you had referred Home for further Instructions.

That Part of your Instructions which directed that this Arrangement, if not made the Subject of Consideration, should be settled by the Exchange, of Ministerial Notes dated on the same Day, and reciprocally delivered at the same Time, was expressly intended to guard against the Possibility of your committing yourself by a written Proposal, in the Uncertainty of what might be the Nature of the Answer to be returned to it.

His Majesty will not suppose it that Mr. Smith's intended Answer can have been communicated to you previously, and have obtained your Approbation.

In the Proposal for restoring the Men taken from on board the Chesapeake, it was not intended that the Condition of His Majesty's Right to reclaim them in a regular Way from the American Government, if either Natural-born Subjects of His Majesty, or Deserters from His Majesty's Service, should have been omitted. I dwell, however, the less on this Point, as His Majesty's Right, in this Respect, is founded on Public Law, and does not require to be fortified by the Recognition of any other Government.

But

But I cannot forbear observing with Regret that the Bounty of His Majesty, in the intended Provision for the Relations of the Men killed on board of the Chesapeake, is not only stated by you without a similar Restriction, but is brought forward at once as a Part of the Reparation originally offered; and thus converted by you from an Act of spontaneous Generosity, into One of positive Obligation.

3dly, In Addition to the Substance of Mr. Smith's Note, which I have already mentioned, it remains for me to notice the Expressions so full of Disrespect to His Majesty, with which that Note concludes. And I am to signify to you the Displeasure which His Majesty feels, that any Minister of His Majesty should have shewn himself so far insensible of what is due to the Dignity of His Sovereign, as to have consented to receive and transmit, to be laid before His Majesty, a Note in which such Expressions were contained.

I am, &c.

(Signed) *George Canning.*

No. 6.

DISPATCH from Mr. Secretary Canning
to the Honourable David Erskine, dated
Foreign Office, 23d May 1809.

Sir,

I PROCEED in this Dispatch to point out to you those Deviations from the Instructions conveyed to you in my Dispatch No. 2. which you have unfortunately thought yourself at Liberty to adopt, and

of which I have to express to you His Majesty's entire Disapprobation.

I do not dwell upon the singular and offensive Step taken by the American Government in publishing the Whole of the Correspondence which had taken place between you and the American Secretary of State ; because His Majesty is willing to believe that you cannot have been a Party to this Publication : His Majesty conceives it impossible that you should have given your Consent to such a Proceeding, especially in respect to a Transaction which you profess yourself to consider as merely " conditional." But as the Publication appears to have taken place on the 19th of April, the Day of the Date of your Dispatches, it seems difficult to understand how it happens that your Dispatches should not contain any Notification of your Intention to remonstrate against a Proceeding so extraordinary, as that of the Publication of the Correspondence of a Minister without his Concurrence, and previously to his Transmission of it to His Court.

I am, in the first Place, to observe to you that the Instructions which I transmitted to you, by His Majesty's Command in my Dispatch No. 1. expressly stated that, " the Manner in which the Proposal for the Adjustment of that Difference may be received, would be the best Test of the general Disposition of the American Government, and would naturally indicate the Course to be pursued in respect to the further Instructions," which I proceeded to communicate to you in another Dispatch : And I am to express His Majesty's Surprise and Regret, that such a Note as that which you received from Mr. Smith, in answer to your Offer of Reparation for the Affair of the Chesapeake, can have been received by you as a Proof of the Acceptance

tance by the Government of the United States, of the honourable Reparation tendered by His Majesty, " in the same Spirit of Conciliation in which it " was propos'd." That Note itself being an Offence against His Majesty's Dignity, such as no Minister of His Majesty ought to have passed by unresented.

I am at a loss to conceive on what Ground you thought yourself authorized to open your Correspondence, on the Subject of the Orders in Council, with the Intimation of His Majesty's Determination to send to the United States an Envoy Extraordinary " invested with full Power to conclude a " Treaty on all the Points of the Relations between " the two Countries."

Your Instructions do not authorize you to hold out the Expectation of any such Mission, until His Majesty should have received, on the Part of the Government of the United States, an authentic and official Recognition of the Condition which you were directed to require.

The Instructions which I was commanded by His Majesty to transmit to you, on the Subject of the Orders in Council, were framed on the Basis of Three Conditions: The Agreement to which, on the Part of the American Government, was stated to be indispensable to His Majesty's consenting to withdraw His Orders in Council. The first of these Conditions was, that the Interdiction of the Harbours of America to the Ships of War of Great Britain, and all Non-intercourse or Non-importation Acts should be withdrawn, so far as respects Great Britain, " leaving them in force with respect " to France, and the Powers which adopt or act " under her Decrees."

The 2d, That America should announce during the present War, the Pretension of carrying on, in

Time of War, all Trade with the Enemies Colonies from which she was excluded during Peace.

The 3d, That it should be understood and agreed between the Two Powers, that Great Britain should be at Liberty to capture all American Vessels that should be found attempting to trade with France, or any Powers which adopted or acted under her Decrees.

I was commanded to state to you, that upon receiving, on the Part of the American Government, a distinct and official Recognition of these three Conditions, His Majesty would lose no Time in sending a Minister to America fully empowered to consign *them* (these three Conditions) to a formal and regular Treaty, His Majesty on his Part, withdrawing His Orders in Council of January and November 1807, or, if the Delay were thought to be inconvenient, you were authorized to engage for His Majesty, " that upon the Receipt hereof an " Official Note, containing an Engagement for the " Adoption by the American Government of these " three Conditions," His Majesty would be prepared, on the Faith of such Engagement, to recal the Orders in Council, without waiting for the Conclusion of a Treaty.

The Recal thereof, on his Majesty's Part, of the Orders in Council, was to depend entirely and exclusively on the Acceptance, by the American Government, of the Three Conditions so precisely described, and so repeatedly referred to.

In this Respect the Instructions were peremptory, and admitted of no Discretion.

The only Discretion left to you was, in the Event of the American Government, expressing a Wish to that Effect, to anticipate the Operation of the Treaty, by engaging in His Majesty's Name, that His

His Majesty would withdraw the Orders in Council, on the Receipt here of an Official Note containing the formal Engagement of the American Government to adopt these Three Conditions.

Nothing can be more clear than that not one of these Three Conditions has been adopted by the American Government, nor any Engagement taken for their Adoption.

The Second and Third Condition you appear to have given up altogether.

No Mention whatever is made of them in your written Communications to Mr. Smith, and in respect to them therefore you have acted in direct Contradiction to your Instructions.

But even if the First Condition, of which alone you appear to have attempted to obtain the Fulfilment, the most material Part has either been overlooked or conceded by you.

This Condition did not require solely the Repeal of the offensive Acts with respect to Great Britain, but that Repeal coupled with the Continuance of those Acts in force with respect to "France and the Powers" "which adopt and act under her Decrees."

Upon this Clause, the most important Part of the Condition you do not appear to have insisted in any Part, not only of your Correspondence but of your verbal Communications with the American Government.

This Clause, above all others, it was necessary to consign to a formal and written Agreement. As the Matter at present stands before the World in your official Correspondence with Mr. Smith, the American Government would be at Liberty To-morrow to repeal the Non-intercourse Act altogether, without infringing the Agreement which you have thought proper to enter into on Behalf of His Majesty, and

if such a Clause was thought necessary to this Condition at the Time when my Instructions were written, it was obviously become much more so, when the Non-intercourse Act was passed for a limited Time. You must also have been aware at the Time of making the Agreement, that the American Government had, in fact, formally exempted Holland, a Power which has unquestionably adopted and acted under the Decrees of France, from the Operation of the Non-intercourse Act ; an Exemption in direct Contravention of the Condition prescribed to you, and which, of itself, ought to have prevented you from coming to any Agreement whatever.

Without therefore obtaining even One of those Conditions, on the obtaining of all of which the Concession of His Majesty was to depend, you have pledged His Majesty to the full Extent of that Concession, and have placed His Majesty in the painful Alternative of having either to refuse or to abide by an Engagement taken in His Majesty's Name, by an accredited Minister of His Majesty, or to acquiesce in a Measure which has been adopted not only in Non-conformity to His Majesty's Views, but in Contradiction to His positive Directions.

I am, &c.

(Signed) *Geo. Canning.*

No. 7.

No. 7.

DISPATCH from Mr. Secretary Canning
to the Honourable David Erskine, dated
Foreign Office, 30th May 1809.

Sir,

I HEREWITH inclose to you the Copies of an Order which was passed by the King in Council, on Wednesday the 24th Instant; and I have to signify to you, His Majesty's Pleasure that you deliver one Copy of this Order to the American Secretary of State, and that you use your utmost Exertions to render it as public as may be possible, among the Merchants of the United States.

This Order in Council contains, as you will perceive, His Majesty's Disavowal of the Agreement which you have concluded with the American Government.

I am directed by His Majesty, to state to you that His Majesty entertains no Doubt of the good Intentions and Zeal for His Majesty's Service, by which you have been led to depart from your Instructions; but you must be sensible that the Consequence of such a Step, and the Publicity which has been given to it by the American Government, render it impossible that you should continue in the Exercise of your Functions, either with Satisfaction to yourself, or with Advantage to His Majesty's Service.

I have therefore received His Majesty's Command to inform you, that His Majesty has been graciously pleased to appoint Mr. Jackson to replace you, by whom I shall transmit to you your Letter of Recall.

I am, &c.

(Signed) *Geo. Canning.*

No. 8.

DISPATCH from the Honourable David Erskine to Mr Secretary Canning, dated Washington, 3d December 1808.

Sir,

THE Government and Congress have been quite at a Loss how to act in the present extraordinary and embarrassing Situation of their public Affairs, and they have not yet determined upon the Measures which they mean to pursue ; but I think that I may venture to assure you that the Course of Conduct recommended by the Committee of the House of Representatives, to which was referred the Documents mentioned in the President's Message to Congress, will, in Substance, at least, be adopted for the present, with certain Amendments, so as to give some Time previous to its going into Operation.

It is not however, denied by those even who have introduced this Measure, that it is only of a temporary Nature, and that the United States may be driven to adopt a more decided Course of Conduct against the Belligerents before the present Congress closes, or at any Rate soon after the Meeting of the new Legislature, in consequence of the Feelings and Sentiments of the Eastern Division of the United States, which has almost universally expressed a Disapprobation of the Continuance of the Embargo, and has begun to shew Symptoms of Determination not to endure it much longer.

The Government and Party in Power unequally, vocally express their Resolution not to remove the Embargo, except by substituting War Measures against

against both Belligerents, unless either or both should relax their Restrictions upon Neutral Commerce.

Upon this Subject some important Communications have been made to me by Mr. Madison, and several of the Members of this Government, which I will accordingly lay before you, as I confidently believe, they were delivered from an unfeigned Desire that they might produce the Effect of leading if possible to some Adjustment of their Differences with Great Britain, so as to enable the Government and the Nation to extricate themselves from the present very distressing Dilemma in which they are involved.

Mr. Madison expressed his firm Conviction that when the Documents referred to in the President's Message should be seen by His Majesty's Government, and the Correspondences between their Minister in France with the French Minister respecting the Decrees of Berlin and Milan should be deliberately considered; particularly the strong Remonstrance of Mr. Armstrong to the French Government of the 12th Nov. 1807, that it would be acknowledged that the United States had exerted all the Efforts which Remonstrances could have been supposed to be capable of producing, and that in Failure of any Effect from them, in persuading the French Government to withdraw their unjust Restrictions upon Neutral Commerce, Recourse might have been had by the United States, to Measures of more Activity and Decision against France; but that in the mean Time Great Britain had issued her Orders in Council, before it was known whether the United States would acquiesce in the Aggressions of France, and thereby rendered it impossible to distinguish between the Conduct of the Two Belligerents, who had equally

equally committed Aggressions against the United States.

He went also into all the Arguments upon that Subject which are detailed in his Correspondences with the American Ministers in London and Paris, as published in the Documents referred to in the President's Message, but which I do not now repeat, as my Object is merely to inform you of the Result of his Observations, which was, that as the World must be convinced that America had in vain taken all the Means in her Power to obtain from Great Britain and France a just Attention to her Rights as a Neutral Power, by Representations and Remonstrances, that she would be fully justified in having Recourse to Hostilities with either Belligerent, and that she only hesitated to do so, from the Difficulty of contending with both ; but that she must be driven even to endeavour to maintain her Rights against the Two greatest Powers in the World, unless either of them should relax their Restrictions upon Neutral Commerce, in which Case the United States would at once side with that Power against the other which might continue its Aggressions.

Mr. Madison observed to me that it must be evident that the United States would enter upon Measures of Hostility with great Reluctance, as he acknowledged that they are not at all prepared for War, much less with a Power so irresistibly strong as Great Britain, and that nothing would be thought to be too great a Sacrifice to the Preservation of Peace, except their Independence and their Honor. He said that he did not believe that any Americans would be found willing to submit to (what he termed) the Encroachments upon the Liberty of the Rights of the United States by the Belligerents, and therefore

fore the Alternatives were Embargo or War. He confessed that the People of this Country were beginning to think the former Alternative too passive, and would perhaps soon prefer the latter as even less injurious to the Interests and more congenial with the Spirit of a Free People.

He declared to me that every Opinion which he entertained respecting the best Interests of his Country led him to wish that a good Understanding should take place between Great Britain and the United States, and that he thought that the obvious Advantages which would thereby result to both Countries were a sufficient Pledge of the Sincerity of his Sentiments.

The Reasons which induce me to believe that the Views and Determinations of this Government as described to me by Mr. Madison, are their real Sentiments, and that they will pursue that course of Conduct which they have marked out, arise from a mature Consideration of the actual State of the Affairs of this Country, the particular Situation of the Government and ruling Party, and from certain private but important Communications which have been made to me by some of the Members of the Administration, who are sincerely desirous of a Conciliation with Great Britain.

It is evident from every Thing which has lately taken place in this Country, that the People at large are desirous of having the Embargo removed, but it is also to be collected from the Result of the Elections throughout the United States, that the present ruling Party have a decided Majority of the People with them, and as they have pledged themselves not to repeal it, while the Restrictions upon their Neutral Rights continue in Force by both Belligerents, without substituting War Measures, and as

as they themselves acknowledge " that the ultimate and only effectual Mode of resisting such War fare, if persisted in, is War," and " that a permanent Suspension of Commerce would not properly be Resistance, but Submission." I cannot therefore conceive that it would be possible for them to retract their Declarations, and indeed, they would not have the *Power* of continuing the Embargo more than Six Months, and of course, therefore they must substitute War Measures, when it should be withdrawn, unless they were to abandon all the Principles they have laid down, and to change all the Resolutions which they have so unequivocally expressed.

It is true that they might possibly do so, if they found themselves pressed by the Number and Strength of their Opponents, or by a Change in the Opinions of their Majority amongst the People; but it is plain from the Decision in the House of Representatives in Congress, upon the Resolutions proposed by the Committee appointed to consider the Subject of their Foreign Relations, which were carried by a Majority of Eighty-four to Twenty-one, that they have not lost any Ground in the present Congress, and the Result of the Elections for Members of Congress, proves, that altho' they have lost some Votes in the Eastern States, that they will have a great Majority out of the whole Number of the next Congress.

For these Reasons I conclude that the Government Party could carry along with them the Support of the People in the Measures which they might resolve to take, and I have already explained, why I believe they will adopt the Course of Conduct which I have described in the foregoing Part of this Dispatch, arising out of the State of the Country

Country and their own particular Situation, and I will therefore proceed to explain my private Reasons for feeling confirmed in their Opinions, and will have the Honour of laying before you some important Communications which were made to me by some of the Members of this Government, unofficially, but with a Desire that they might produce a favourable Effect towards a Conciliation with Great Britain. I beg Leave to refer you to my next Number in which they are detailed.

I have the Honour to be,
with the highest Respect,
Sir:

Your most obedient humble Servant,
D. M. Erskine.

No. 9.

DISPATCH from the Honourable David Erskine to Mr. Secretary Canning, dated Washington, 4th December 1808.

Sir,

IN the Course of several private Interviews which I had with Mr. Gallatin the Secretary of the Treasury, and with Mr. Smith, Secretary of the Navy, I have collected from them that their Sentiments coincide with those of Mr. Madison, which I have detailed at some Length in the preceding Number of my Dispatches, respecting the proper Course of Conduct which ought to be pursued by the United States, in their present Situation, although they had differed as to the Propriety of laying on the Embargo,

bargo, as a Measure of Defence, and had thought that it would have been better to have resorted to Measures of a more decided Nature at first, but that now they had no other Means left, but to continue it for a short Time longer; and then in the Event of no Change taking place in the Conduct of the Belligerents towards the United States, to endeavour to assert their Rights against both Powers; but that if either should relax in their Aggressions, they said they would vote for taking Part with that one against the other which should continue its Aggressions.

Mr. Gallatin remarked to me, that the Resolutions which were proposed by the Committee of Foreign Relations in their Report to the House of Representatives, and which had already passed in the Committee of the whole House, and would perhaps soon pass into a Law, seemed to him to remove two very important Grounds of Difference with Great Britain, viz. the Non-importation Act, as applicable to her alone, and the President's Proclamation, whereby the Ships of Great Britain were excluded from the Ports of the United States, while those of France were permitted to enter, but now, by the Non-intercourse Law both Powers were placed on the same Footing; he did not pretend to say that this Measure had been taken from any Motives of Concession to Great Britain; but as in fact those Consequences followed, he conceived they might be considered as removing the Two great Obstacles to a Conciliation. This he wished might be the Case, as he intimated to me that such Steps were about to be taken by Congress upon another very important Subject of the Differences between the Two Countries, as might have a further Effect, in leading to a favourable Adjustment of them. He informed me, that a Law was about to be proposed to Congress

gress, and which he believed would pass, to interdict all American Vessels from receiving on board any Foreign Seamen, under heavy Penalties or Forfeitures, and that already the Ships of War of the United States had been ordered not to receive any, and to discharge such as were at that Time on board. This Subject is also alluded to by Mr. Giles, the Senator, in his Speech, who is high in the Confidence of the Government, and it is said, is to be Mr. Madison's Secretary of State. Mr. Gallatin also said, that he knew that it was intended by the United States to abandon the Attempt to carry on a Trade with the Colonies of Belligerents in Time of War which was not allowed in Time of Peace, and to trust to the being permitted by the French to carry on such Trade in Peace so as to entitle them to a Continuance of it in Time of War.

In this Manner he observed all the Points of Differences between Great Britain and the United States might be smoothed away (was his Expression) and that the United States would be willing to put the Intercourse with Great Britain upon a perfect Footing of Reciprocity, and would either consent to the Arrangement that the Ships of both Nations should pay the same Duties reciprocally, or place each other simply upon the Footing of the most favoured Nation.

I have no Doubt that these Communications were made with a sincere Desire that they might produce the Effect of Conciliation, because it is well known that Mr. Gallatin has long thought that the restrictive and jealous System of Non-importation Laws, Extra Duties, and other Modes of checking a free Trade with Great Britain have been erroneous and highly injurious to the Interests of America ; he informed me, distinctly, that he had always enter-

tained that Opinion, and that he had uniformly endeavoured to persuade the President to place the Conduct of Great Britain and France towards the United States in a fair Light before the Public. He seemed to check himself at the Moment he was speaking upon that Subject, and I could not get him to express himself more distinctly, but I could clearly collect from his Manner, and from some slight Insinuations, that he thought the President had acted with Partiality towards France. For he turned the Conversation immediately upon the Character of Mr. Madison, and said, that *He* could not be accused of having such a Bias towards France: and remarked, that Mr. Madison was known to be an Admirer of the British Constitution, to be generally well disposed towards the Nation, and to be entirely free from any Enmity to its general Prosperity. He appealed to me, whether I had not observed that he frequently spoke with Approbation of its Institutions, its Energy and Spirit, and that he was thoroughly well versed in its History, Literature and Arts.

These Observations he made at that Time for the Purpose of contrasting the Sentiments of Mr. Madison with those of the President, as he knew that I must have observed, that Mr. Jefferson never spoke with Approbation of any Thing that was British, and always took up French Topics in his Conversation, and always praised the People and Country of France, and never lost an Opportunity of shewing his Dislike to Great Britain.

At the Close of my Interview with Mr. Gallatin, he said in a familiar Way, " You see, Sir, we could " settle a Treaty in my Private Room in Two. " Hours, which might, perhaps, be found to be " as lasting as if it was bound up in all the For-
" malities.

“ malities of a regular System, and might be found
 “ as reciprocally useful as a Treaty consisting of
 “ Twenty-four Articles, in which the intricate
 “ Points of Intercourse might be in vain attempted
 “ to be reconciled to the opposite, and perhaps,
 “ jealous Views of Self-Interest of the respective
 “ Countries.”

I have taken the Liberty of detailing to you the Substance of this unofficial Conversation with Mr. Gallatin, in order to explain to you the Grounds upon which I have formed my Opinion that the Members of the present Government who it is expected will belong also to the next, would be desirous of settling the Differences of the United States with Great Britain, to enable them to extricate the Country and themselves from the Difficulties in which they are involved; for it is now, I believe, determined that Mr. Gallatin will accept his present Office under Mr. Madison, which was at one Time doubted. The Character of Mr. Gallatin must be well known to you, to be held in the greatest Respect in this Country for his unrivalled Talents as a Financier and as a Statesman. There cannot I think be any reasonable Doubt entertained that he is heartily opposed to French Aggrandizement, and to the Usurpations of Buonaparte. He was an Enthusiast in Favour of the French Revolution, in the early Periods of it, but has long since abandoned the favourable Opinions he had entertained respecting it, and has viewed the Progress of France towards universal Dominion with Jealousy and Regret.

How far the good Will of this Government and Country towards Great Britain may be worth in the Estimation of His Majesty's Government, the Sacrifice of the Orders in Council and of the Impression which they might be expected to make on

France, it would be presumptuous in me to venture to calculate, but I am thoroughly persuaded that at THAT PRICE it might be obtained.

I have endeavoured, by the most strict and diligent Enquiries into the Views and Strength of the Federal Party, to ascertain to what Extent they would be willing and able to resist the Measures of the Party in Power, and how far they could carry the Opinions of this Country along with them in their Attempts to remove the Embargo, without recurring to Hostilities against both Great Britain and France.

Upon a mature Consideration of this Subject I am persuaded that great as the Desire is which generally prevails for the Removal of the Embargo, that the Federalists would not venture to recommend that it should be withdrawn, without proposing some Measures of greater Energy as a Substitute. Some have indeed hinted at the Propriety of at once declaring War against France; but few, however, of those who have been most clamorous against the Embargo, have yet offered their Opinions as to what Course ought to be pursued, although all have declared against the Submission to the Restrictions upon their Neutral Rights.

When the small Number of those who have pointed out the Propriety of going to War with France, alone, is considered, even of the Federal Party, I cannot believe that such a Measure would succeed.

All the Leaders of the Democratic Party in Congress and out of it, declare that they only propose the Continuance of the Embargo for a short Time, and that if the Voice of the People at large is for more active Resistance, that they shall be willing and ready to put forth the Strength of the Country for that Purpose. These Declarations are to be found in

in the Speeches, some printed Copies of which I have sent herewith ; you will find, however, that in some of them a great Stress is still laid upon the Effects to be expected from the Embargo in coercing the Belligerents, particularly Great Britain, to relax in her Restrictions, from the Distress and Inconvenience which is likely to be produced by the Want of the Produce of this Country.

This Reliance upon such Consequences from the Embargo is greatly, indeed almost entirely diminished in the Opinions of most People, and I conceive that the only Reason why the ruling Party wish it to be continued, arises from a Hope that Time might afford them an Opportunity of better judging of the probable Issue of Events in Europe, particularly of the Success or Failure of Buonaparte in Spain.

It may be doubted whether the Privations and Inconveniences produced by the Embargo in this Country, will not compel the Congress to take some hostile Measures, in order to have a Pretext for its Removal of so trifling a Nature, however, as to leave it to the Belligerents to overlook them, if they please, and to save the ruling Party from the Necessity of going into War. Measures of great Expence and Danger not only to their own Popularity and Power but, perhaps, even to the Safety of the Union. I propose to have the Honour of offering some Remarks upon this Subject in the next Number of my Dispatches.

With the highest Respect,
I have the Honour to be,
Sir,
Your most obedient humble Servant,
D. M. Erskine.

No. 10.

DISPATCH from the Honourable David Erskine to Mr. Secretary Canning, dated Washington, 16th March 1809.—Received 15th April.

Sir,

SINCE the Arrival in the Delaware River on the 10th Instant of the American Dispatch Vessel the Union from England and France, I have had an Interview with the President (Mr. Madison) and the Secretary of State (Mr. Robert Smith) who expressed their Sentiments to me very freely relative to the Intelligence which was brought by that Vessel.

The President observed, that the Alteration in His Majesty's Orders in Council by the recent Order which had been communicated by you to Mr. Pinkney, suspending "the Operation of the Acts as to any Duties on Exportation granted by the said Acts as far as relates to Articles being the Growth, Produce, or Manufacture of any Country being in Amity with His Majesty," &c. &c. did not in fact remove the Objections entertained by the United States against the Orders in Council in a Degree worthy of Notice. That they still violated the Neutral Rights of this Country, as they made it necessary for American Ships to pass through England, which was not only an Infringement of the Independence of the United States, but was completely destructive of their Commerce, since the American Vessels were prohibited from going to the Continent after they had been forced to touch in England.

He

He remarked also upon the Circumstance of Russia and Denmark being comprehended in the Operation of the Orders in Council, which he said was assuming a New Principle, as the Orders had been hitherto rested upon the Ground of a Right of Retaliation, whereas Russia and Denmark have never issued any Decree violating Neutral Rights. He complained severely of this, and went over the same Arguments upon these Points which he had made use of while he was Secretary of State, and seemed to be greatly disappointed and vexed that no Change in the Relations of the United States with the Belligerents seemed likely to take place before the Meeting of the New Congress in May next, as he foresees the serious Difficulties and Embarrassments in which the United States will be then involved in determining upon the course of Conduct which it will be expedient to pursue, as it is universally thought that the Non-intercourse Law cannot last longer than the next Session of Congress, and it will become necessary at that Time either to abandon all Idea of Resistance, or to determine to adopt Measures of Hostility against both Belligerents, which could not be carried in the last Congress, and therefore are still less likely to be adopted in the New, which will consist of a larger Number of Members averse to such a desperate and unavailing Course.

The Secretary of State (Mr. Robert Smith) repeated the Sentiments which he had often expressed to me, when Secretary of the Navy, of Regret that His Majesty's Government seemed not to believe that the United States would resist the Decrees of France. He thinks the Correspondence between the American Minister at Paris (General Armstrong) and the French Government, prove the Determination

of this Government, not to submit to them. He declared to me also that he *knows* that War would have been instantly declared against France, upon Great Britain's relaxing her Orders, which he said were issued before the United States had an Opportunity of ascertaining the illegal Interpretation which France meant to put upon her Decrees; he added, that he was convinced that even now, Measures of actual Hostility would be adopted against France, without Hesitation, should Great Britain relax in her Orders so as to afford the United States an Opportunity of doing so with Honour; but that it would be impossible that they should single out France as an Opponent, while Great Britain, contrary, to her own Declarations, enforced her Orders before any Acquiescence on the Part of the United States in the French Decrees had been proved.

He acknowledged that it might be difficult to bring on a State of actual Hostility between this Country and Great Britain upon the Grounds of any subsisting Differences, but that he was desirous that an amicable Understanding should prevail between the Two Countries, which the present State of their Relations would entirely prevent.

He added, that he was afraid the Irritations which were likely to be produced by Captures under His Majesty's Orders in Council might lead to serious Consequences, which he said he should deprecate, as he was unwilling to see the United States thrown into an Alliance which he thought already too powerful for the Interest of the World. He did not pretend to entertain any Partiality towards England, but considered that the Interest of the United States was the same at the present Moment with that of Great Britain.

These

These Sentiments, as expressed to me by Mr. Robert Smith are, I believe, very sincere. I have been much acquainted with him, and cannot I think be mistaken in the Opinion which I have formed of his Disposition and Feelings upon that Subject.

Both the President and Secretary of State are I understand much offended at the Appointment of Admiral Berkeley to a high Command pending the serious Complaint preferred against him by the United States, they have not mentioned the Subject to me, as no authentic Account of the Fact has been yet received ; but I expect to hear strong Representations upon the Subject, should it prove to be well founded.

As I have already had the Honour to convey to you my Sentiments upon the Subject of the Non-intercourse Law, in several preceding Numbers of my Dispatches, as also upon the general Aspect of Affairs, in this Country, I will not trouble you with any further Remarks, but beg Leave to refer you to the enclosed Extract from my No. 12. which was sent in His Majesty's Packet with the Mail of last Month, as it contains my Opinion upon those Topics, which are unchanged.

This Dispatch, as also my Nos. 14. and 15. will be carried to England in the American Dispatch Vessel Pacific, which will sail from hence in a few Days with a Messenger, a Lieutenant Read : another Vessel is going at the same Time to France with a Messenger and Dispatches. Mr. Coles, the Private Secretary of the late President, is to be the Bearer of them.

(Inclosure

(Inclosure referred to in No. 10.)

Washington, 15th March 1809.

AS the ruling Party perceive that it would not be in their Power to carry the Eastern States along with them in a War with Great Britain, on the Grounds of any subsisting Differences between the Two Countries, they hope that the frequent Captures of the Vessels belonging to the Eastern States, which are likely to take place in consequence of His Majesty's Orders in Council continuing in Operation may excite an Irritation in the Minds of the People of those States, and lead them to take a Part in the next Congress in any Measures which might be pointed against Great Britain.

I continue to be firmly persuaded that Mr. Madison, who has now been pronounced to be the next President, would most willingly seize the first Opportunity of recommending to the next Congress to assert the Neutral Rights against France, should His Majesty deem it to be just or expedient to cause His Orders in Council to be withdrawn, in consequence of a Determination being evinced by the United States, not to submit to the Aggressions of France. And I conceive that it is not at all improbable that he might authorize Mr. Pinkney to make a Communication to you to that Effect, as he has frequently in Conversation said to me, that no Hesitation would be felt in this Country, of entering upon Hostilities with France, if she did not recal her Decrees, but he always added, that it was impossible the United States could take such a Step while His Majesty's Orders were in force, because their Justification could only be attempted upon the Grounds that the United States had acquiesced in the

the Decrees of France, which he uniformly contends has never been the Case.

It is evident to me that he will be supported in this Sentiment by his own Party in Congress, and in the Country generally so far as to prevent his feeling himself compelled to single out France as an Enemy, while His Majesty's Orders in Council continued in force ; but I am perfectly confident that it would be impossible that they could bring on a War with England, unless it should be occasioned, as I have before mentioned, by an Irritation produced in the Minds of the People of the Eastern States, by the Losses which might be sustained by them in their Ships and Commerce by Captures under His Majesty's Orders.

The Weight and Influence of the Eastern States has been sufficient to force the ruling Party to abandon their favourite System of Embargo, and that too without the "painful Alternative" of President Jefferson of War being substituted ; but I doubt extremely how far they could compel the Congress and President into a War with France, unless the United States could be called upon to assert its Neutral Rights by the temporary Removal of His Majesty's Orders in Council to give them that Opportunity.

It appears by the Result of the State of the Votes for President and Vice President which was declared in the Senate Yesterday, that Mr. Madison had 122 Votes out of 175, and that all the Votes, except Three in the Southern and Western States, were in his Favour, besides Pennsylvania ; and that Two-thirds of the Votes of the State of New York were given to him. He had also all the Votes of Bermont, but that was in consequence of the Votes being given by the Legislature of that State, which happened to

be democratic ; besides having 9 out of the 12 Votes of the State of Maryland.

This vast Majority would enable the President Elect and his Party to resist the Solicitations of the Four Eastern States should they urge the next Congress to single out France as an Enemy, because the same Power which has proved incompetent to enforce an illegal, oppressive and ruinous Law, would still be sufficient to withstand a Requisition to wage a War, which, however just, would not be likely to be attended with any Profit or Advantage.

It is true that a Non-intercourse Law may be considered by the Eastern States very objectionable, but as it would be rather a nominal Prohibition than a rigorous Enforcement, a Resistance to it would be less likely to be made, and of less Importance if it should take place.

The ultimate Consequences of such Differences and Jealousies arising between the Eastern and Southern States, would inevitably tend to a Dissolution of the Union which has been for some Time talked of, and has of late, as I have heard, been seriously contemplated by many of the leading People in the Eastern Division.

I will not however trouble you with any Observations upon that important Topic at present, but confine myself to the Consequences of the Measures about to be adopted in Congress, affecting His Majesty's Interest.

Whatever may be the Motives of the Congress for the passing a Non-intercourse Law with England and France, I conceive that great Advantages may be reaped from it by England, as she has the Command of the Seas, and can procure through Neutrals any of the Produce of this Country, besides the immense Quantity which will be brought

brought direct to Great Britain, under various Pre-tences; whereas France will obtain but little, at a great Expence and Risk, and will only get that little in consequence of the high Prices in their Markets.

This Measure will operate in so partial and discouraging a Manner upon the Eastern States which are Commercial, that it would not be submitted to very long, and its Effects in preventing the Introduction of British Manufactures would be trifling, as they would be smuggled into the Country with the greatest Facility, since the People who alone could interfere with Effect, would encourage such a Traffic between His Majesty's Dominions in Canada, and the adjacent Territories of the United States, and in various other Ways.

Another Advantage arising to Great Britain from the Non-intercourse Law would be, that the Interdiction of Ships of War from entering the Ports of the United States would be general, instead of being directed solely against His Majesty's Ships. The Non-importation Law would be also general, and the Consequence would be, that His Majesty's Subjects would get a great Quantity of Goods into the United States, but French Subjects could not introduce any.

Should His Majesty deem it proper to consider the Non-intercourse Law in the Light of a Municipal Regulation, which the United States had a Right to establish, and not as a Measure of Hostility, I am persuaded that it would not be in the Power of any Party in this Country, even if they wished it, to bring on a War with Great Britain.

(Signed) *D. M. Erskine.*

No. 11.

DISPATCH from the Honourable David Erskine, to Mr. Secretary Canting, dated Washington, 18th April 1809.

Sir,

I HAD the Honour of receiving your Dispatches, Nos. 1, 2, 3, 4, & 5, of the 23d January, and your separate of the 2d February with its several Inclosures, which were delivered to me on the 7th, by Mr. Oakely, His Majesty's Secretary of Legation, who arrived on the 3d Instant in the Bay of Chesapeake, in His Majesty's Ship Rosamond.

I lost no Time in endeavouring to carry into Effect the important Instructions contained in those Dispatches, and accordingly waited upon the Secretary of State (Mr. Robert Smith) for the Purpose of ascertaining, officially, the general Disposition of this Government to enter into an amicable Discussion of the Differences between the Two Countries, as it appeared that the Spirit of your Instructions seemed to require my particular Attention to that Point, as being likely to afford the best Ground for forming an Opinion of the Sincerity of those conciliatory Professions which I had stated to you, I had received informally from several Members of Weight and Influence in the late and present Administration of this Country.

The Secretary of State (Mr. Smith) having repeated to me the most unequivocal Assurances of a cordial Desire being entertained by the President and himself, for an Accommodation of all the Points of Dispute between the United States and Great Britain, I opened the Subject of your Dispatch, No. 1. namely,

namely, the Reparation proposed to be tendered on the Part of His Majesty, for the Attack on the Chesapeake, upon which Mr. Smith observed, that as a Proof of the Sincerity of his Wishes that the Affair might be amicably settled, he proposed to me, previously to the Delivery of my Note upon that Subject, that we should endeavour to agree upon some Terms, which would not only be accepted, but which might preclude the Necessity of any unfriendly Discussions of the Causes and Consequences of that Occurrence.

As this Proposal appeared to confirm the Assurances he had given me of his Wish for an amicable Accommodation of that Affair, I willingly acceded to it, and explained to him the Nature of the Reparation which was intended to be offered. With the Terms of Satisfaction for that Injury, as far as they went, he appeared to be satisfied; but observed, that he had fully expected some Assurance would have been given, that an adequate Punishment for (what he termed) a flagrant Act of Aggression, should be inflicted upon the Naval Officer, by whose Directions it had been committed, or that at least a Court Martial would have been ordered by His Majesty upon his Conduct; and he added, that as the President had dwelt with so much Force upon the Propriety and Necessity of some Redress of that Sort, he was afraid that he would think it incumbent upon him to require it.

In Obedience to your Commands, I peremptorily declined holding out the least Expectation, that any further Mark of His Majesty's Displeasure would be shewn towards Admiral Berkeley, on account of the Part he took in that Transaction.

After a Day's Consideration on that Point by the President, assisted by his Cabinet, it was communicated,

cated to me by Mr. Robert Smith, that any Demand of further Punishment would be waved.

I found in the course of several Interviews I had with Mr. Smith, that any Allusions, which might be made by me to the Details of the Affairs of the Chesapeake, of the Causes which led to it, and of the Discussions which followed, would be likely to bring on a complicated and fruitless Controversy.

I therefore founded my official Note upon the Circumstance of the Equality which had been produced by the Operation of the Non-intercourse Act, in the Relations of the United States with the Belligerent Powers, as having afforded the Opportunity to His Majesty to offer an honourable Reparation for the Affair of the Chesapeake, which it is universally known was only withheld on account of the Partiality of the *Proclamation* which has been since merged in the general Effect of the Non-intercourse Act.

The Reply of Mr. Smith acknowledges the Operation of the Non-intercourse in producing that Equality, and only intimates " that it was a Result incident to a State of Things growing out of distinct Considerations."

I have the Honour of inclosing a Copy of my Note marked (A.) to Mr. Smith of the 17th Instant, and his Answer marked (B.) which terminated our Negotiation on this Subject.

I have the Honor to be, with
the highest Respect, &c.

(Signed) *D. M. Erskine.*

(First

(First Inclosure referred to in No. 11.)

NOTE from Mr. Erskine to the Secretary of State of the United States ; dated Washington, April 17th, 1809.

Sir,

I HAVE the Honour to inform you, that I have received His Majesty's Commands to represent to the Government of the United States, that His Majesty is animated by the most sincere Desire for an Adjustment of the Differences which have unhappily so long prevailed between the two Countries, the Recapitulation of which might have a Tendency to impede, if not to prevent, an amicable Understanding.

It having been represented to His Majesty's Government, that the Congress of the United States in their Proceedings at the opening of the last Session, had evinced an Intention of passing certain Laws which would place the Relations of Great Britain with the United States upon an equal Footing, in all Respects, with the other Belligerent Powers, I have accordingly received His Majesty's Commands, in the Event of such Laws taking place, to offer on the Part of His Majesty an honourable Reparation for the Aggression committed by a British Naval Officer in the Attack on the United States Frigate, Chesapeake.

Considering the Act passed by the Congress of the United States, on the First of March (usually termed the Non-intercourse Act) as having produced a State of Equality in the Relations of the two Belligerent Powers, with respect to the United States, I have to submit, conformably to my Instructions,

structions, for the Consideration of the American Government, such Terms of Satisfaction and Reparation as His Majesty is induced to believe will be accepted in the same Spirit of Conciliation with which they are proposed.

In Addition to the prompt Disavowal made by His Majesty, on being apprised of the unauthorized Act committed by His Naval Officer, whose Recal, as a Mark of the King's Displeasure, from an highly important and honourable Command, immediately ensued, His Majesty is willing to restore the Men forcibly taken out of the Chesapeake, and, if acceptable to the American Government, to make a suitable Provision for the unfortunate Sufferers on that Occasion.

I have the Honour to be, &c.

(Signed) *D. M. Erskine.*

(Second Inclosure referred to in No. 11.)

Note from the Secretary of State of the United States to Mr. Erskine, dated Department of State, April 17th, 1809.

Sir,

I HAVE laid before the President your Note, in which you have, in the Name and by the Order of His Britannic Majesty, declared that His Britannic Majesty is desirous of making an honourable Reparation for the Aggression committed by a British Naval Officer in the Attack on the United States Frigate the Chesapeake; that in Addition to His prompt Disavowal of the Act, His Majesty, as a Mark of his Displeasure, did immediately recal the offending Officer from an highly important and honourable Command; and that He is willing to restore

restore the Men forcibly taken out of the Chesapeake, and, if acceptable to the American Government, to make a suitable Provision for the unfortunate Sufferers on that Occasion.

The Government of the United States, having at all Times entertained a sincere Desire for an Adjustment of the Differences which have so long and so unhappily subsisted between the two Countries, the President cannot but receive with Pleasure, Assurances that His Britannic Majesty is animated by the same Disposition, and that He is ready, in Conformity to this Disposition, to make Atonement for the Insult and Aggression committed by one of His Naval Officers, in the Attack on the United States Frigate the Chesapeake.

As it appears at the same Time, that in making this Offer, His Britannic Majesty derives a Motive from the Equality now existing in the Relations of the United States with the Two Belligerent Powers, the President owes it to the Occasion, and to himself, to let it be understood, that this Equality is a Result incident to a State of Things growing out of distinct Considerations.

With this Explanation, as requisite as it is frank, I am authorized to inform you, that the President accepts the Note delivered by you, in the Name and by the Order of His Britannic Majesty, and will consider the same with the Engagements therein, when fulfilled, as a Satisfaction for the Insult and Injury of which he has complained.—But I have it in express Charge from the President to state, that, while he forbears to insist on a further Punishment of the offending Officer, he is not the less sensible of the Justice and Utility of such an Example, nor the less persuaded that it would best comport with what is due from His Britannic Majesty to his own Honour.

I have, &c. &c.

(Signed) *R. Smith.*

No. 12.

DISPATCH from the Honourable David Erskine to Mr. Secretary Canning, dated Washington, April 20th, 1809.

Sir,

AS the Instructions contained in your Dispatches, Nos. 1 & 2. directed me to regulate my Conduct in making Propositions on the Part of His Majesty to this Government according to the general Disposition which might be shewn by them to come to a complete and cordial Understanding with Great Britain, I accordingly used all my Efforts to discover whether the Professions of such a Disposition which had been so often repeated to me unofficially, and lately in the most formal Manner, were sincere. The Result of further Communication persuaded me, that the Sentiments of this Government had been truly represented to me; and I was confirmed in that Opinion by the favourable Reception of the Reparation tendered by His Majesty for the Affair of the Chesapeake, the Details of which I have given in my preceding Number.

With this Conviction upon my Mind I examined with the greatest Attention the Tenor of your Instructions contained in your Dispatch No. 1. and particularly the Three Conditions upon which His Majesty was willing to withdraw the Orders in Council of January and November 1807, as respects the United States.

The First of them I considered would be of course officially recognized by the American Government, since the 11th Section of the Act of Congress, usually termed the Non-Intercourse Act, provided for such a contingent Proposition.

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The Second Condition named by you I knew would be acquiesced in, not only from the Declarations which had been made to me by most of the Members of this Government, but from the universal Opinion of the Members of Weight and Influence in both Houses of Congress, that the Principles and Object, sought to be established by that Rule, were equitable, and would ever be insisted upon by Great Britain.

I foresaw, however, that a Difficulty must arise in obtaining a formal Recognition on that Point without any Reference to other Commercial Arrangements which would form the Basis of a regular Treaty.

The Third Condition, it was obvious, could not be objected to, because an American Owner of a Vessel captured by a British Cruizer, on Account of its Destination to France, or to any other Country with which an Intercourse was prohibited by the Laws of the United States, could not complain to this Government of such Seizure, as the only Answer would be, that the Enterprize being illegal, he had no Claim to Redress.

Upon my submitting the Three Conditions to the Consideration of the Secretary of State, he made the Answer to the First which I had anticipated, namely, that the President would of course assent to it, and in pursuance of the Power vested in him by the Congress, would issue a Proclamation for that Purpose, to take Effect on the same Day that the Orders in Council should cease to co-operate as respects the United States.

With regard to the Second, he said that altho' he was persuaded that no Difficulty would arise in the Adjustment of that Point conformably to the Views of His Majesty's Government, when the various

Articles of a Commercial Treaty should be brought under Discussion, yet it was impossible for the American Government to give an official Recognition of that Principle as a previous Step, because there was no Commerce of any Kind, at present, permitted by the Laws of the United States, to be carried on with France or her Dependencies; and that the Question therefore must necessarily belong to another State of Things, or remain to be adjusted by Treaty.

The Third Condition Mr. Smith observed appeared to him to require no Recognition, since it was evident that the Interference of the Government of the United States could never be recognized by any of its Citizens for Redress for an Injury sustained in consequence of a direct Breach of the Laws, and that in the Event of any such Appeal being made, the only Answer given would be, that the Government would immediately order the Bonds of the Petitioner to be put into Execution against him for a Violation of the Laws.

He stated, however, that the Circumstance of the Government of the United States stipulating that Great Britain should be allowed to execute their Laws would be degrading and attended with no Advantages to the latter.

Under these Circumstances it became my Duty to consider whether the Spirit of your Instructions would be accomplished by my obtaining an official Recognition on the Part of this Government of the First Condition, and an Understanding respecting the Two others in Conformity with the Views of His Majesty's Government, tho' not given in a formal Manner (for Reasons before detailed) or whether it was incumbent on me to forbear from making any Proposition, as I could not obtain a Compliance with the exact Letter of your Instructions,

Various

Various Considerations of great Weight urged me to endeavour to bring about an Adjustment of the Differences between the Two Countries, upon the Points entrusted to my Discretion, as far as it was possible, without departing from the Orders I had received.

The strongest Inducement was derived from the Communications which I had lately received from Mr. Smith, of the Satisfaction of the French Minister here with the Non-intercourse Act, the Particulars of which I have given in my No. 17, also from the general Aspect of the Relations of this Country with Great Britain and France, as detailed in my No. 17. and 18. and in some previous Dispatches.

The Circumstance of the Congress being about to assemble very shortly, was another Reason for wishing to have an amicable Arrangement concluded, since the Majority of both Houses had pledged themselves to a Resistance of the Restrictions upon neutral Commerce, if it could be pointed against either of the two great Belligerent Powers separately, and that it was only on account of the Impossibility of any successful Effort being made, that they were prevented from ascertaining their Rights against both during the last Session.

As this Government thought that any long Delay in the Time for the Renewal of the Intercourse between Great Britain and the United States would deprive such an Arrangement of many of its mutual Advantages, and as fully agreed in that Opinion, a Day certain (the 10th of June next) was accordingly fixed upon.

The Notes which passed between the Secretary of State and myself, and which I have now the Honour to enclose (marked A, B, C, D,) will explain the

Course pursued in the Arrangement that was concluded.

Should His Majesty's Government consider that I have exceeded the Limits of my Instructions in the Engagement I have made on His Majesty's Behalf, I am aware that no Advantages which might be derived from it to Great Britain, could justify my Conduct.

I therefore rest my Vindication upon the Reasons detailed in the foregoing Part of this Dispatch, for believing that I have adhered to the Spirit, and as far as I could to the Letter of my Orders ; but I place my chief Reliance on the well known Liberality of His Majesty in appreciating the Conduct of his Servants.

I will only beg Leave to remark, that the Agreement has been concluded in the Persuasion that an amicable Understanding would be settled by the special Mission, and with a View to promote so desirable an Object.

Should unexpected Difficulties occur in forming a Treaty, or should His Majesty's Envoy Extraordinary find Reason to doubt the Friendly Disposition of the United States, it will then rest with His Majesty to take such Measures as may be deemed proper, according to the actual State of Things.

In the meantime no Injury can be derived, I conceive, from that conditional Agreement.

I have the Honour to be, &c.

(Signed) *D. M. Erskine,*

(First

(First Inclosure referred to in No. 12.)

NOTE from Mr. Erskine to Mr. Smith,
dated Washington, April 18th 1809.

Sir,

I HAVE the Honour of informing you, that His Majesty having been persuaded that the honourable Reparation which He had caused to be tendered for the unauthorized Attack on the American Frigate Chesapeake would be accepted by the Government of the United States in the same Spirit of Conciliation with which it was proposed, has instructed me to express His Satisfaction, should such a happy Termination of that Affair take place, not only as having removed a painful Cause of Difference, but as affording a fair Prospect of a complete and cordial Understanding being established between the Two Countries.

The favourable Change in the Relations of His Majesty with the United States, which has been produced by the Act (usually termed the Non-intercourse Act) passed in the last Session of Congress, was also anticipated by His Majesty, and has encouraged a further Hope that a Reconsideration of the existing Differences might lead to their satisfactory Adjustment.

On these Grounds and Expectations I am instructed to communicate to the American Government His Majesty's Determination of sending to the United States an Envoy invested with full Powers to conclude a Treaty of all the Points of the Relations between the Two Countries.

In the mean Time, with a View to contribute to the Attainment of so desirable an Object, His Majesty would be willing to withdraw His Orders in Council

Council of January and November 1807, so far as respects the United States, in the Persuasion that the President would issue a Proclamation for the Renewal of the Intercourse with Great Britain; and that whatever Difference of Opinion should arise in the Interpretation of the Terms of such an Agreement, will be removed in the proposed Negotiation.

I have the Honour to be, &c.

(Signed) *D. M. Erskine.*

(Second Inclosure referred to in No. 12.)

NOTE from Mr. Smith to Mr. Erskine,
dated Department of State, 18th April
1809.

Sir,

THE Note, which I had the Honour of receiving from you this Day, I lost no Time in laying before the President, who, being sincerely desirous of a satisfactory Adjustment of the Differences unhappily existing between Great Britain and the United States, has authorized me to assure you, that he will meet with a Disposition correspondent with that of His Britannic Majesty, the Determination of His Majesty to send to the United States a Special Envoy, invested with full Powers to conclude a Treaty, on all the Points of the Relations between the Two Countries.

I am further authorized to assure you, that in case His Britannic Majesty should, in the mean Time, withdraw His Orders in Council of January and November 1807, so far as respects the United States,

the President will not fail to issue a Proclamation, by virtue of the Authority and for the Purposes specified in the Eleventh Section of the Statute commonly called the Non-intercourse Act.

I have the Honour to be,

Sir, &c.

(Signed) R. Smith.

(Third Inclosure referred to in No. 12.)

NOTE from Mr. Erskine to Mr. Smith,
dated Washington, April 19th, 1809.

Sir,

IN consequence of the Acceptance by the President, as stated in your Letter dated the 18th Instant, of the Proposals made by me on the Part of His Majesty, in my Letter of the same Day, for the Renewal of the Intercourse between the respective Countries, I am authorized to declare that His Majesty's Orders in Council of January and November 1807, will have been withdrawn, as respects the United States, on the 10th Day of June next.

I have the Honour to be, &c.

(Signed) D. M. Erskine.

(Fourth Inclosure referred to in No. 12.)

NOTE from Mr. Smith to Mr. Erskine,
dated Department of State, April 19th,
1809.

Sir,

HAVING laid before the President your Note of this Day, containing an Assurance that His Britannic Majesty will, on the 10th of June next, have

have withdrawn His Orders in Council of January and November 1807, so far as respects the United States, I have the Honour of informing you, that the President will accordingly and in pursuance of the Eleventh Section of the Statute commonly called the Non-intercourse Act, issue a Proclamation, so that the Trade of the United States with Great Britain may on the same Day be renewed in the Manner provided in the said Section.

I have the Honour to be, &c,

(Signed) *R. Smith.*

No. 13.

DISPATCH from the Honourable David Erskine to Mr. Secretary Canning, dated Washington, 3d August 1809.

Sir,

I HAVE the Honour to acknowledge the Receipt of your Dispatches, Nos. 10, 11, 12, of the 22d, 23d, and 30th of May, Original and Duplicates, the former brought in His Majesty's Packet Windsor Castle, which arrived at New York on the 25th ult. and the latter which were delivered to me Yesterday by Lieutenant Gregory, commanding His Majesty's Gun Brig, Contest, which arrived in Hampton Roads, in the Bay of Chesapeake, on the 29th ult.

I lost no Time in complying with your Instructions contained in your No. 13, to deliver a Copy of His Majesty's Order in Council, of the 24th of May last, to the Secretary of State of this Government, which I accordingly sent to Mr. Robert Smith in a written Note,

Note, of which the inclosed is a Copy. In Obedience to your Commands I also used all the Means in my Power, to make the above mentioned Order publickly known throughout the United States.

It is with the deepest Regret that I find from your Dispatches, Nos. 10 and 11, of the 22d and 23d May, that His Majesty has disapproved of the Manner in which I have executed the Instructions which you sent me, by Mr. Oakley, and has been compelled to disavow the Provisional Agreement which I had lately entered into with this Government, under the Persuasion that it would have met with His Majesty's Approbation.

The Duty and high Respect which I owe to His Majesty, would restrain me from making any Reply to the Animadversions upon my Conduct, which you have conveyed to me by His Majesty's Commands, but I consider that it is incumbent upon me to offer some Observations upon certain Points of my Negociation, which appear to have been misunderstood, in consequence I suppose of my having given them an insufficient or imperfect Explanation. It is stated by you in your No. 10. of the 22d of May, that with respect to the Instructions relating to the Chesapeake, which formed the Subject of your Dispatch No. 1. of the 23d January last, I had omitted a Preliminary of the most material Importance, as the Condition of "His Majesty's no longer insisting upon the Recal of the Proclamation of 1807, as a Preliminary to the Adjustment of the Difference arising from the Affair of the Chesapeake, and that the Ships of War of France shall in Point of Fact have been excluded from the Ports of the United States, and such Ships of that Description as were in those Ports shall have been warned to depart."

Of

Of this Condition you observe, that I appear to have taken no Notice whatever; you add also that the Non-intercourse Bill operated to the Prospective Exclusion.

I beg Leave to refer you to the First Section of the Non-intercourse Law, which you will find excludes the Ships of War, from the passing of that ~~Act~~ on the First of March; the Prohibition therefore was not prospective but immediate, and in fact had been in Operation Six Weeks before I commenced the Negotiation.

Upon the Subject of the Warning which should be given to any French Ships in the Ports of the United States, the Secretary of State, Mr. Robert Smith, informed me, that there were no French Ships at present within the Waters of the United States, and that if it was to be *presumed*, that the Government would cause their Laws to be executed; in the Propriety and Justice of which Sentiment, I fully acquiesced.

The preliminary Condition above mentioned was therefore, I conceive fulfilled.

Your next Objection states, that the Proclamation of the President of July 1807, is neither withdrawn, nor its Operation declared to be at an End.

On Explanation of this Point, I beg Leave to remark, that the Non-intercourse Law abrogated even the ~~Act~~ upon which the President's Proclamation was founded, by the Words at the End of the 3d Section of that ~~Act~~, inserted by the Congress for that express Purpose, which Circumstance I communicated to you in my No. 18. of the 17th of March, and again in my No. 19. of the 18th of April, in which I mentioned that the Secretary of State declared to me that the Proclamation was merged in the Non-intercourse, I believe I omitted

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in my No. 19. to inform you that Mr. Smith added that it was impossible to issue a Proclamation to recal an Edict, which was already revoked and could not not be revived.

The third Objection taken by you is upon a Point of so delicate a Nature that I proceed to an Explanation of it, with the greatest Caution and Deference.

Permit me, Sir, to request that you will lay before His Majesty my most earnest Assurances that I would not have allowed any Expressions which I thought disrespectful towards His Majesty to have remained unanswered, in any Note I may have received.

It would be an inexcusable Presumption in me to attempt to put a different Construction upon the Expressions contained in the latter Part of Mr. Smith's first Letter to me, or to view the Meaning of the Words in a different Light from that, which you have been pleased to inform me His Majesty has done; but I think it my Duty to declare, that I do not believe any Intention whatever existed in the Mind of the President of the United States, to convey a disrespectful Meaning towards His Majesty by those Expressions.

Upon my being informed by the Secretary of State, that the President would agree to waive any Demand for further Punishment of the British Officer, who had caused an Attack to be made on the United States Frigate Chesapeake, but that it would be impossible to refrain from expressing an Opinion that he deserved it; I used all my Efforts to persuade this Government to give up such an Insinuation, not from any Idea that I entertained of its being disrespectful to His Majesty, but as it might seem less conciliatory than the Disposition of the President

President had been represented to me, and of the Sincerity of which I was fully persuaded.

After I had received Mr. Smith's Note, I deliberated upon the Propriety of making any Observations in answer to those Expressions, but I was induced to forbear from sending any Reply by Consideration of the Policy and Propriety of not blending irritating Discussion with amicable Adjustments.

It appeared to me that if any Indecorum could justly be attributed to the Expressions in the Official Notes of this Government, the Censure due would fall upon them, and that the public Opinion would condemn their bad Taste or Want of Propriety, in coldly and ungraciously giving up what they considered as a Right, but which they were not in a Condition to enforce.

The Feelings of His Majesty upon that Point are a sufficient Proof that I have formed an erroneous Judgment respecting it, and I have to lament not only that any Act or Omission on my Part should have incurred His Majesty's Displeasure, but that it should have been the Cause (though unintentionally) of conveying any Expression personally disagreeable or even apparently disrespectful to the Sovereign of my Country.

I have omitted to mention one Circumstance, which is, that the Reason why I did not put in a Claim on the Part of His Majesty to recover from the American Government, Deserters from His Majesty's Service, was, that they have always declared themselves willing to be guided by the Laws of Nations upon that Subject.

My Motives for deviating from the precise Line of my Instructions relative to the Bounty intended by His Majesty for the Relations of the Killed and Wounded

Wounded on Board the Chesapeake, will I hope, upon Explanation, be found to be satisfactory.

When I mentioned His Majesty's liberal Views upon that Point, the Secretary of State informed me, that it would be highly satisfactory if the Offer was expressed in general Terms, although the Government never meant to accept the Provision tendered, but would acknowledge the Liberality of His Majesty, when they might hereafter decline to avail themselves of it, but that if it was put upon the Footing of spontaneous Generosity, it would not be at all acceptable to the United States.

With Sentiments of the highest Respect,
I have the Honour to be,

Sir,

Your most obedient humble Servant,
D. M. Erskine.

(Inclosure referred to in No. 13.)

NOTE from Mr. Erskine to Mr. Smith,
dated July 31, 1809.

Sir,

I HAVE the Honour to enclose to you a Copy of an Order, which was passed by His Majesty in Council, on the 24th of May last.

In communicating this Order, it is with the deepest Regret that I have to inform you that His Majesty has not thought proper to confirm the last Provisional Agreement which I had entered into with you [on the Part of our respective Governments.

Neither the present Time nor the Occasion will afford me a favourable Opportunity for explaining

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to you the Grounds and Reasons upon which I conceived I had conformed to His Majesty's Wishes, and to the Spirit at least, of my Instructions upon that Subject, nor indeed would any Vindication of my Conduct, whatever I may have to offer, be of any Importance further than as it might tend to shew that no Intention existed, on my Part, to practise any Deception towards the Government of the United States.

I have the Satisfaction however to call your Attention to that Part of the inclosed Order, which protects the Commerce and Shipping of the United States from the Injury and Inconveniencies which might have arisen to American Citizens from a Reliance on the provisional Agreement before mentioned, and I cannot but cherish a Hope that no further bad Consequences may result from an Arrangement which I had fully believed would have met with His Majesty's Approbation, and would have led to a complete and cordial Understanding between the two Countries.

With Sentiments of the highest
Respect and Consideration,
I have the Honour to be,
Sir,
Your most obedient humble Servant,
D. M. Erskine.

No. 14.

DISPATCH from the Honourable David Erskine to Mr. Secretary Canning, dated Washington, 7th August 1809.

Sir,

BEFORE I proceed to lay before you such Explanations as I have to offer relating to the Points mentioned in your Dispatch, No. 11. of the 23d May, in which you have expressed to me His Majesty's entire Disapprobation of my Deviations from the Instructions contained in your No. 2. transmitted to me by Mr. Oakeley, I will take this Opportunity of informing you that the American Government did not consult with me on the Propriety or Expediency of publishing the Notes, which passed between the Secretary of State Mr. Robert Smith and myself in our Negotiations, but according to their Practice they made public the State of their Foreign Relations at the Moment when they thought it was for the Interest of the United States that it should be known.

The Reasons which were assigned by the Secretary of State for having done so, were certainly intended as favourable to His Majesty's Interests, since he declared it was with a View to exhibit to the People of this Country the Adjustment of Differences with Great Britain which had taken Place, and the Prospect of a further good Understanding, in order that the Members of Congress might assemble with favourable Sentiments towards Great Britain, as also that the Event might be speedily and generally known in France, so as to bring that Power to a definitive

Determination respecting its Relations with the United States.

It would be not only superfluous but might be deemed improper that I should repeat the Reasons already detailed in my No. 20. of the 18th of April, which led me to believe, that I had conformed to the Spirit if not to the Letter of your Instructions contained in your No. 2. since I have received the Communication through you of His Majesty's Disapprobation of the Manner in which I have executed them.

It remains for me only to declare, that I was greatly influenced in my Conduct by the repeated Intimations in your Instructions (in No. 4. Jan. 23. that "the Sincerity of the good Disposition possessed by the Persons composing the New American Administration was the Point most important in the View of the British Government."

That Disposition I was fully convinced was entertained by this Government, which they were ready to evince in any Way consistent with the Power they held by the Constitution of the United States.

His Majesty having thought proper to cause you to communicate his Surprise and Regret, that I should have received such a Note as that from Mr. Smith in Answer to the Offer for Reparation for the Affair of the Chesapeake, as a Proof of the Acceptance by the Government of the United States of the honourable Reparation tendered by His Majesty, " in the same Spirit of Conciliation, in " which it was proposed," I am therefore precluded from offering any Observations upon that Subject other than such as I have ventured to make in the preceding Number of my Dispatches.

As a further Apology I may be permitted to observe, that as I had (I conceive) full Reason for believing

believing that the Disposition of the Government of the United States was conciliatory, I may have dwelt in my own Mind, while writing my Note in Answer to that of Mr. Smith, upon that Impression, and may have on that Account attributed to Mr. Smith's Note, a stronger Appearance of Conciliation than the Language of it may justify.

It is remarked by you in your No. 11. of the 23d May that my Instructions did not authorize me to hold out the Expectation that His Majesty would send an Envoy Extraordinary to conclude a Treaty with the Government of the United States, until His Majesty should have received from him an authentic and official Recognition of the Conditions which I was directed to require.

The Conditions were undoubtedly not recognized in the formal Manner required by you, because this Government had not sufficient Authority to make an Engagement as to what should be the Determination of the United States, through its Legislative Assemblies upon the State of their Foreign Relations.

It rested with the Congress alone to declare that the Non-intercourse Law should be continued or not, and in what Manner it should be carried into Effect. The President could do no more than act upon the Law as it existed.

I have already furnished you in my No. 20. with my Reasons for believing that all the Conditions would have been accomplished by the Congress, which had pledged themselves in the most solemn Manner, to resist the Restrictions upon their Neutral Rights against such Powers as should infringe them.

I had informed you in some Dispatches sent before I had received my Instructions, that the American Government did not know with sufficient Accuracy

what Nations had issued or enforced Decrees violating Neutral Rights, but that when they could ascertain that Fact, there could be no Doubt that the Congress would make the Non-intercourse Act to comprehend all such Powers as should adopt or act under the Decrees of France.

It appears from the general Tenor of your Dispatches, No. 10. & 11. that His Majesty's Government were not willing to trust to Assurances from the American Government, but that official Pledges were to have been required which could not be given for want of Power, some of them also being of a Nature which would prevent a formal Recognition.

Had I believed that His Majesty's Government were determined to insist upon those Conditions being complied with, in one particular Manner only, I should have adhered implicitly to my Instructions; but as I collected from them, that His Majesty was desirous of accomplishing his retaliatory System by such Means as were most compatible with a good Understanding with Friendly and Neutral Powers, I felt confident that His Majesty would have approved of the Arrangement I had concluded, as one likely to lead to a cordial and complete Understanding and *Co-operation* on the Part of the United States, which *Co-operation* never could be obtained by *previous Stipulation* either from the Government of the United States, who have no Power to accede to them or from the Congress, which would never acknowledge them as Recognitions to guide their Conduct.

I have, &c. &c.

(Signed) *D. M. Erskine,*

No. 15.

DISPATCH from the Honourable David Erskine to Mr. Secretary Canning, dated Washington, 10th August 1809.

Sir,

I BEG Leave to request that you will be pleased to lay before His Majesty my most grateful Acknowledgements for the Communication which you have made to me by His Commands, that " His Majesty entertains no Doubt of the good Intentions and Zeal for His Majesty's Service by which I have been led to depart from my Instructions."

Nothing could have induced me to have deviated in the slightest Degree from the Orders I had received, but a thorough Conviction upon my Mind that by so doing to a certain Extent I should accomplish the Object which His Majesty had in View, when by too strictly adhering to the Letter of my Instructions I might lose the Opportunity of promoting essentially His Majesty's Wishes and Interest.

I submit myself with great Deference to His Majesty's Commands, and shall accordingly deliver to Mr. Jackson, whom His Majesty has been pleased to appoint in my Place as Envoy Extraordinary, and Minister Plenipotentiary to the United States, all the Papers and Documents belonging to the Mission, whenever he shall present to me His Majesty's Order for that Purpose.

No. 16.

LETTER from the Honourable David Erskine to the Honourable Mr. Smith, dated Washington, 14th August 1809.

Sir,

I HAVE the Honour to acknowledge the Receipt of your Letter of the 9th Instant, informing me that you had just received a Letter from Mr. Pinckney, inclosing a printed Paper, purporting to be a Copy of a Dispatch to me from Mr. Canning, which states among other Things, from the Report of your Conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith it appears:

1st. " That the American Government is prepared in the Event of His Majesty's consenting to withdraw the Orders in Council of January and November 1807, to withdraw contemporaneously on its Part, the Interdiction of its Harbours to Ships of War and all Non-intercourse and Non-importation Acts, so far as respects Great Britain, leaving them in Force, with respect to France and the Powers which adopt or act under her Decrees."

2d. " That America is willing to renounce during the present War, the Pretensions of carrying on, in Time of War, all Trade with the Enemies' Colonies, from which she was excluded during Peace."

3dly. " Great Britain for the Purpose of securing the Operation of the Embargo, and the *bonâ fide* Intention of America to prevent her Citizens from trading with France, and the Powers adopting " and

“ and acting under the French Decrees, is to be
 “ considered as being at Liberty to capture all such
 “ American Vessels as may be found attempting to
 “ trade with the Ports of any of these Powers,
 “ without which Security for the Observance of the
 “ Embargo, the raising it nominally with respect
 “ to Britain alone, would, in Fact, raise it with
 “ respect to all the World.”

The Explanations which you request from me upon that Subject, should be given with Candour, and I will proceed accordingly to lay before you an Abstract of the Communications which I made to His Majesty's Government relative to the unofficial Conversations which I had held with Mr. Madison, then Secretary of State, Mr. Gallatin, and yourself, at the Time, and upon the Occasion alluded to by His Majesty's Secretary of State (Mr. Canning) in that Part of his Instructions to me, of which you inform me you have received a printed Copy from Mr. Pinckney.

Upon referring to my Dispatches addressed to His Majesty's Government of the 3d and 4th December last, in which these Communications are detailed, I conclude that the Conversations alluded to must have been held some Days previous to that Period, and were to the following Effect.

Mr. Madison (then Secretary of State) is represented by me to have urged various Arguments tending to prove that the United States had exerted all their Efforts to persuade the French Government to withdraw their unjust Restrictions upon Neutral Commerce, and that Recourse might have been had to Measures of more Activity and Decision against France than mere Remonstrances; but that, in the mean Time, Great Britain had issued her Orders in Council before it was known whether the United States

States would acquiesce in the Aggressions of France, and thereby rendered it impossible to distinguish between the Conduct of the Two Belligerents, who had equally committed Aggressions against the United States.

After some other Observations, Mr. Madison is stated by me at that Time, to have added, that as the World must be convinced that America had in vain taken all the Means in her Power to obtain from Great Britain and France a just Attention to Her Rights as a Neutral Power, by Representations and Remonstrances that she would be fully justified in having Recourse to Hostilities with either Belligerent, and that she only hesitated to do so from the Difficulty of contending with both, but that she must be driven even to endeavour to maintain her Rights against the Two greatest Powers in the World, unless either of them should relax its Restrictions upon Neutral Commerce, in which Case the United States would at once side with that Power against the other, which might continue its Aggressions.

That every Opinion which he entertained respecting the best Interests of his Country led him to wish that a good Understanding should take Place between Great Britain and the United States; and that he thought, that the obvious Advantages which would thereby result to both Countries, were a sufficient Pledge of the Sincerity of his Sentiments.

These Observations, Sir, I beg Leave to remark were made to me by Mr. Madison, about a Month after the Intelligence had been received in this Country of the Rejection by His Majesty's Government of the Proposition made through Mr. Pinkney by the President for the Removal of the Embargo as respected Great Britain upon Condition that the Orders in Council should be withdrawn as respected the

the United States, and his Sentiments were, as I conceived, expressed to me in order that I might convey them to His Majesty's Government, so as to lead to a Reconsideration of the Proposition above mentioned with a View to the Adjustment of the Differences upon that Subject between the respective Countries. But I never considered that Mr. Madison meant that the Government of the United States would pledge themselves beyond the Proposition respecting the Embargo as above stated, because that was the Extent of the Power of the President by the Constitution of the United States.

I understand, very distinctly, that the Observations of the Secretary of State were intended to convey an Opinion as to what ought and would be the Course pursued by the United States, in the Event of His Majesty's Orders in Council being withdrawn.

In these Sentiments and Opinions you concurred, as I collected from the Tenor of several Conversations, which I held with you at that Period.

With respect to the second Point, as stated in your Letter to be contained in a Dispatch from Mr. Canning, I beg Leave to offer the following Explanation.

In the Course of a private Interview I had with Mr. Gallatin (the Secretary of the Treasury) he intimated, that the Non-intercourse Law which was then likely to be passed by the Congress, ought to be considered as removing Two very important Grounds of Difference with Great Britain, namely, The Non-Importation Act as applicable to her alone, and also the President's Proclamation, whereby the Ships of Great Britain were excluded from the Ports of the United States, while those of France were permitted to enter; but that by the Non-intercourse Law

Law both Powers were placed on the same Footing. He did not pretend to say that this Measure had been taken from any Motives of Concession to Great Britain, but as, in fact, those Consequences followed, he conceived they might be considered as removing the Two grand Obstacles to a Conciliation.

He adverted also to the Probability of an Adjustment of another important Point in dispute between the Two Countries, as he said, he knew that it was intended by the United States, to abandon the Attempt to carry on a Trade with the Colonies of Belligerents in Time of War, which was not allowed in Time of Peace, and to trust to the being permitted by the French to carry on such Trade in Peace, so as to entitle them to a Continuance of it in Time of War.

As it may be very material to ascertain what "Trade with the Colonies of Belligerents," was (in my Conception) meant by Mr. Gallatin as intended to be abandoned by the United States, I feel no Hesitation in declaring that I supposed he alluded to the Trade from the Colonies of Belligerents direct to their Mother Country, or to other Belligerents; because the Right to such Trade had been the Point in Dispute; whereas the Right to carry on a Trade from the Colonies of Belligerents to the United States had never been called in Question, and had been recognized by His Majesty's Supreme Court of Admiralty, and the Terms even upon which such Colonial Produce might be re-exported from the United States had been formally arranged in a Treaty signed in London by the Ministers Plenipotentiary of both Countries, which was not indeed ratified by the President of the United States, but was not objected to as to that Article of it which settled the Terms upon which such Trade was to be permitted.

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Such was the Substance, Sir, of the unofficial Conversation which I had held with Mr. Madison, Mr. Gallatin, and yourself, which I did not consider or represent to His Majesty's Government, as intended with any other View, than to endeavour to bring about the Repeal of the Orders in Council, by shewing that many of the Obstacles which had stood in the Way of an amicable Adjustment of the Differences between the Two Countries were already removed, and that a fair Prospect existed of settling, what remained since the United States had exhibited a Determination to resist the unjust Aggressions upon her neutral Rights, which was all that Great Britain had ever required ; but I certainly never received any Assurances from the American Government, that they would pledge themselves to adopt the Conditions specified in Mr. Canning's Instructions as Preliminaries, nor did I ever hold out such an Expectation to His Majesty's Government, having always stated to them that in the Event of His Majesty's thinking it just or expedient, to cause his Orders in Council to be withdrawn, that the President would take off the Embargo as respected England, leaving it in Operation against France, and the Powers which adopted, or acted under her Decrees, according to the Authority which was vested in him at that Time by the Congress of the United States, and that there was every Reason to expect that a satisfactory Arrangement might be made upon the Points of the Colonial Trade which had been so long in Dispute between the Two Countries.

As to the Third Condition referred to by you, specified in Mr. Canning's Instructions, I have only to remark that I never held any Conversation with the Members of the Government of the United States

States relative to it, until my late Negotiation ; or had ever mentioned the Subject to His Majesty's Government, it having, for the first Time, been presented to my Consideration in Mr. Canning's Dispatch to me of the 23d January, in which that Idea is suggested, and is stated to have been assented to by Mr. Pinkney.

It would be unavailing at the present Moment to enter upon an Examination of the " Pretensions " set forth in Mr. Canning's Letter of Instructions." " (which you are pleased to term) " extraordinary."

I consider it however to be my Duty to declare, that during my Negotiation with you, which lead to the Conclusion of the provisional Agreement, I found no reason to believe that any Difficulties would occur in the Accomplishment of the Two former Conditions, as far as it was in the Power of the President of the United States to accede to the First, and consistently with the Explanation which I have before given of the Second Point. On the contrary, I received Assurances through you, that the President would comply, (as far as was in his Power) with the First Condition, and that there could be no Doubt that the Congress would think it incumbent upon them to assert the Rights of the United States against such Powers as should adopt or act under the Decrees of France, as soon as their actual Conduct or Determination upon that Subject could be ascertained ; but that in the mean-time, the President had not the Power and could not undertake to pledge himself in the formal Manner required to that Effect.

I received also Assurances from you, that no Doubt could be reasonably entertained that a satisfactory Arrangement might be made in a Treaty upon

upon the Subject of the Second Condition mentioned in Mr. Canning's Instructions, according to my Explanation of it in the foregoing Part of this Letter, but that it necessarily would form One Article of a Treaty, in which the various Pretensions of the Two Countries would be settled.

The Third Condition you certainly very distinctly informed me, could not be recognized by the President, but you added, what had great Weight in my Mind, that you did not see why any great Importance should be attached to such a Recognition, because it would be impossible that a Citizen of the United States could prefer a Complaint to his Government on Account of the Capture of his Vessel while engaged in a Trade absolutely interdicted by the Laws of his Country.

Under these Circumstances, therefore, finding that I could not obtain the Recognitions specified in Mr. Canning's Dispatch of the 23d of January, which formed but One Part of his several Instructions to me, in the formal Manner required, I considered that it would be in vain to lay before the Government of the United States the Dispatch in Question, which I was at Liberty to have done *in extenso*, had I thought proper. But as I had such strong Grounds for believing that the Object of His Majesty's Government could be obtained, though in a different Manner, and the Spirit at least of my Instructions be fully complied with, I felt a thorough Conviction upon my Mind that I should be acting in conformity with His Majesty's Wishes, and accordingly concluded the late Provisional Agreement on His Majesty's Behalf with the Government of the United States.

The Disavowal by His Majesty is a painful Proof to me, that I had formed an erroneous Judgement of His

His Majesty's Views, and the Intention of my Instructions, and I have most severely to lament that an Act of mine (though unintentionally) should produce any Embarrassments in the Relations between the Two Countries.

It is a great Consolation to me, however, to perceive that Measures have been adopted by both Governments to prevent any Losses and to obviate any Inconveniences which might have arisen to the Citizens or Subjects of either Country, from a Reliance on the Fulfilment of that provisional Agreement; and I cannot but cherish a Hope that a complete and cordial Understanding between the Two Countries may be effected.

I beg Leave to add, that it would give me great Happiness to have contributed to so desirable an Object, and to offer you the Assurances of the great Respect and high Consideration with which I remain,

Sir,

Your most obedient humble Servant,
(Signed) *D. M. Erskine.*



FURTHER PAPERS

RELATIVE TO

AMERICA.

Ordered to be printed 6th February 1810.

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LIST OF PAPERS.

1. DISPATCH from Mr. Secretary Canning to William Pinkney Esq. dated 27th May 1809.
2. Letter from the Hon. David Erskine to the Hon. Robert Smith, dated 31st July 1809.
3. Dispatch from the Hon. David Erskine to Mr. Secretary Canning, dated 31st August 1809.
4. Letter from the Hon. Robert Smith to the Hon. David Erskine, dated 9th August 1809.
5. Letter from Albert Gallatin Esq. to the Hon. David Erskine, dated 13th August 1809.
6. Letter from the Hon. David Erskine to Albert Gallatin Esq. dated 15th August 1809.

PAPERS.

No. 1.

DISPATCH from Mr. Secretary Canning
Wm. Pinkney Esq. dated Foreign Office,
27th May 1809.

Sir,

ACCORDING to the Intimation which I gave to you in our last Conference, I have now the Honour to enclose to you a Copy of the Order in Council which His Majesty has directed to be issued for the Purpose of preventing as far as possible any Inconvenience or Detriment to the Merchants of the United States who may have entered into Commercial Speculations on the Faith of the unauthorized Engagements of Mr. Erskine, previously to the Notification in America of His Majesty's Disavowal of those Engagements.

Having had the Honour to read to you *in extenso* the Instructions with which Mr. Erskine was furnished, it is not necessary for me to enter into any Explanation of those Points in which Mr. Erskine has acted, not only not in Conformity but in direct Contradiction to them.

I forbear equally from troubling you, Sir, with any Comment on the Manner in which Mr. Erskine's Communications have been received by the American Government, or upon the Terms and Spirit of Mr. Smith's Share of the Conversation.

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Such Observations will be communicated more properly through the Minister whom His Majesty has directed to proceed to America, not on any Special Mission (which Mr. Erskine was not authorized to promise except on Conditions, not one of which he has obtained) but as the Successor of Mr. Erskine, whom His Majesty has not lost a Moment in recalling.

I have, &c.

(Signed) *George Canning.*

No. 2.

COPY of a Letter from the Honourable Mr. Erskine to the Honourable Robert Smith, dated Washington, 31st July 1809.

Sir,

I HAVE the Honour to inclose to you a Copy of an Order, which was passed by His Majesty in Council on the 24th of May.

In communicating this Order it is with the deepest Regret I have to inform you, that His Majesty has not thought proper to confirm the late Provisional Agreement which I had entered into with you on the Part of our respective Governments.

Neither the present Time nor the Occasion will afford me a favourable Opportunity for explaining to you the Grounds and Reasons upon which I conceived I had conformed to His Majesty's Wishes, and to the Spirit at least of my Instructions upon that Subject, nor indeed, would any Vindication of my Conduct (whatever I may have to offer) be of any

Importance,

Importance, further than as it might tend to shew that no Intention existed on my Part to practise any Deception towards the Government of the United States.

I have the Satisfaction however to call your Attention to that Part of the inclosed Order, which protects the Commerce and Shipping of the United States from the Injury and Inconveniences which might have arisen to American Citizens from a Reliance on the Provisional Agreement before mentioned, and I cannot but cherish a Hope that no further bad Consequences may result from an Arrangement, which I had fully believed would have met with His Majesty's Approbation, and would have led to a complete and cordial Understanding between the Two Countries.

With Sentiments of the highest Respect and Consideration,

I have the Honour to be,
Sir, &c.

(Signed) *D. M. Erskine.*

No. 3.

DISPATCH from the Honourable David Erskine to Mr. Secretary Canning, dated Baltimore, 31st August 1809.

Sir,

I HAVE the Honour of enclosing Copies of a Correspondence which has passed between the Secretary of State (Mr. Robert Smith) Mr. Gallatin, and myself, upon the Subjects therein detailed.

I have the Honour to be, &c.

(Signed) *D. M. Erskine.*

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No. 4.

LETTER from the Hon. Robert Smith to
the Hon. David Erskine, dated Depart-
ment of State, 9th August 1809.

Sir,

I HAVE just received from Mr. Pinckney, a Letter enclosing a printed Paper, purporting to be a Copy of a Dispatch to you from Mr. Canning, which states, among other Things, that from the Report of your Conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears,

“ 1st. That the American Government is prepared, in the Event of His Majesty’s consenting to withdraw the Orders in Council of January and November 1807, to withdraw contemporaneously on its Part, the Interdiction of its Harbours to Ships of War and all Non-intercourse and Non-importation Acts, so far as respects Great Britain, leaving them in force with respect to France, and the Powers which adopt or act under her Decrees.

“ 2d. That America is willing to renounce, during the present War, the Pretension of carrying on in Time of War, all Trade with the Enemies Colonies from which she was excluded during Peace.

“ 3d. Great Britain for the Purpose of securing the Operation of the Embargo, and the *bonâ fide* Intention of America to prevent her Citizens from trading with France, and the Powers adopting and acting under the French Decrees, is to be considered as being at Liberty to capture all such American Vessels as may be found attempting to trade with the Ports of any of those Powers; without which Security for the Observance of the Embargo the raising

raising it nominally with respect to Great Britain alone, would in fact raise it with respect to all the World."

I have the Honour to request you to favour me with such Explanations as your Candour will at once suggest, in relation to these imputed Conversations.

I forbear to express to you, Sir, the Surprize that is felt at the extraordinary Pretensions set forth in this Letter of Instruction, and especially at the Expectation that this Government would as a Preliminary recognize Conditions, two of which are so manifestly irreconcileable to the Dignity and Interest of the United States.

I however would remark, that had you deemed it proper to have communicated *in extenso* this Letter, it would have been impossible for the President to have perceived in its Conditions, or in its Spirit, that conciliatory Disposition which had been professed and which it was hoped had really existed.

I have the Honour to be, &c.
(Signed) R. Smith.

No 5.

COPY of a Letter from Albert Gallatin Esq. to the Honourable David Erskine, dated 13th August 1809.

Sir,
I DO not believe that, in the Conversations we have had respecting the Practicability of an Adjustment of the Differences between the United States

States and Great Britain, we ever have misunderstood one another. Yet as from Mr. Canning's Instructions lately published by your Government, it would seem that some Opinions are described to several Members of this Administration, which they did not entertain, it appears necessary to ascertain whether, on any Point, a Misapprehension can have taken place.

I will forbear making any Observations on what, in the Instructions, is called the Third Condition, since it is not asserted that that inadmissible Proposition was suggested at Washington.

The Points embraced in Mr. Canning's First Proposition formed the principal Topic of our Conversations relative to a Revocation of the Orders in Council; yet in the Manner in which the Proposition is expressed, it goes further than had been suggested by the Members of this Administration.

It is sufficiently evident from the Proceedings of Congress, both previous and subsequent to the unsatisfactory Agreement of April last, that the United States intended to continue the Restrictions on the Commercial Intercourse with France, whilst such of her Decrees as violated our Neutral Rights continued in force, and to remove those Restrictions in relation to Great Britain, in the Event of a Revocation of the Orders in Council; but that State of Things so far as it related to France was to result from *our own Laws*, known or anticipated by your Government, when they authorized an Arrangement, and it was not proposed by us that the Continuance of the Non-intercourse with France should be made a *Condition* of that Arrangement.

Whilst on that Subject, I will add an Observation, though perhaps not immediately connected with the Object of this Letter.

I think.

I think that the Object of that Proposition, so far as it agreed with your previous Understanding of the Intentions of this Government, has been substantially carried into Effect on our Part. It is true, that your Government might, at the Date of the Instructions, have expected from the incipient Proceedings of Congress, that Holland would be embraced by the restrictive Laws of the United States. Not only, however, was the Omission Nominal, since American Vessels were, at the Time, by the Decrees of that Country, refused Admission into its Ports, but under the same Construction of our Laws, by which the Commercial Intercourse with Holland was permitted, that with Portugal was also considered as legal, in the Event of that Country being occupied by British, in the Name of the Prince Regent.

It is therefore principally as respects the Second Condition which relates to the Colonial Trade, that erroneous Inferences might be drawn from the Expressions used in Mr. Canning's Instructions.

Although the Subject must have been mentioned here incidentally, and only in a transient Manner, as it is one to which I had paid particular Attention, and on which my Opinion had never varied, I think that I can state with Precision, in what View I have always considered it, and must have alluded to it.

1st. I never could have given Countenance to any Opinion that the United States would agree, or that it would be proper to make any Arrangement whatever, respecting the Colonial Trade, a Condition of the Revocation of the Orders in Council.

The Two Subjects were altogether unconnected, and I am confident that such a Proposition was never suggested either by you, or by any Member of this Administration; such an Arrangement could be effected

effected only by Treaty, and it is with a considerable Degree of Surprise that I see your Government now asking, not only Resistance to the French Decrees, but the Abandonment of a Branch of our Commerce, as the Price of the Revocation of the Orders in Council.

This seems to give a new Character to a Measure which had heretofore been represented as an *Act* of Retaliation reluctantly adopted, and had been defended solely on the Ground of a supposed *Acquiescence* on the Part of the United States in the injurious Decrees of another Nation.

2d. In the Event of a Treaty embracing all the Points in Dispute, and particularly that of Impressments, without which I trust no Treaty will ever take place, it was my Opinion, and certainly I may have expressed it, that if the other Objects of Difference were arranged, that respecting the Colonial Trade would be easily adjusted.

I had considered the Principles recognized in a former Correspondence between Lord Hawkesbury and Mr. King on the Subject of the Colonial Trade, and subsequently again adopted in the Treaty negotiated by Messrs. Munroe and Pinkney, as a general Basis agreed on under different Administrations by both Governments, from which neither could now recede, and susceptible only of Modifications as to Details. The Instructions to our Ministers in London on that Subject, had also been published, and were known to your Government. I therefore believed that the United States in the Event of a Treaty would still be disposed to waive for the present, in the Manner, and on the Terms contemplated by those Instructions, their Right to that Branch, and to that Branch only of the Colonial Trade, known by the Name of *Direct Trade*, that

that is to say, the Trade carried directly from Belligerent Colonies to the Belligerents in Europe, where that Trade was not permanently in Peace, as in War, permitted by the Laws of the Country to which those Colonies belonged.

But the Right to a Trade between such Colonies and the United States generally, and to that in Colonial Articles between the United States and other Countries, never can or will, in my Opinion, be abandoned, or its Exercise be suspended by this Government: On the contrary, it is solely in order to secure, by an express Stipulation, that Trade against the Danger of Interruption, and thus, by a mutual Spirit of Accommodation, to avoid Collisions, that the Abandonment of the direct Branch can ever be assented to.

Permit me, therefore, to request that you will inform me, whether you understood me on those two Points, as I certainly meant to be understood, namely, that the Relinquishment, during the present War, of what is called the Direct Trade was alone contemplated, and that no Arrangement on that Subject was suggested as a Condition of the Revocation of the Orders in Council.

I have the Honour to be, &c.

(Signed) *Albert Gallatin.*

No. 6.

LETTER from the Honourable David Erskine to Albert Gallatin Esq. dated Washington, 15th August 1809.

Sir,

I HAVE the Honour of acknowledging the Receipt of your Letter of the 13th Instant, in which you have been pleased to say, that although you do not

not believe that in the Conversation we have had respecting the Practicability of an Adjustment of Differences between the United States and Great Britain, we ever have misunderstood one another ; yet, from Mr. Canning's Instructions lately published by my Government, it would seem that some Opinions are ascribed to several Members of this Administration which they did not entertain, it appears necessary to ascertain whether on any Point a Misapprehension can have taken place.

In answer to your Enquiries, I have great Satisfaction in assuring you, that there appears to have been no Misunderstanding respecting the Substance or Meaning of the Conversations which passed between us, as stated in Mr. Canning's Instructions alluded to.

After the most careful Perusal of your Statement of the Purport of our Conversations, I cannot discover any material Difference from the Representation which I have made upon that Subject to the Secretary of State (Mr. Robert Smith) in my Letter to him of the 14th Instant, to which I will therefore beg Leave to refer you ; as I have therein detailed the Substance of the Conversation according to my Recollection of it, which is in every respect essentially the same as that which you seem to have entertained.

During the Conversation which we held respecting the Practicability of an amicable Adjustment of the Differences between the two Countries, when the Relinquishment by the United States during the present War, of what is called the Colonial Trade was suggested by you, I conceived that you meant (as you have stated) the Trade carried directly from the Belligerent Colonies to the Belligerents in Europe, where that Trade was not permanently in Peace.

Peace as in War permitted by the Laws of the Country to which those Colonies belonged.

I never supposed that you intended to convey an Opinion that the Government of the United States would make any Arrangement respecting the Colonial Trade as a Condition of the Revocation of the Orders in Council, the two Subjects being altogether unconnected; nor have I ever represented to His Majesty's Government that such Preliminary Pledges would be given.

I have, &c.

(Signed)

D. M. Erskine.

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